

Health Care Power of Attorney Names Agent to Make Health Care Decisions

Q: What is a health care power of attorney?

A: A health care power of attorney (HCPOA) is a legal document authorizing a person you trust (your “agent”) to make health care decisions with or for you in any health care situation (involving, for example, hospitals, nursing homes, dentists, doctors, pharmacists and EMTs).

Q: When can my agent make health care decisions?

A: Depending on the option you choose, your agent can make health care decisions with or for you:

- with you, beginning immediately and at any time for as long as the HCPOA is in effect;
- for you, beginning immediately, but ending on a specific date (following surgery, for example, or continuing if, on the end date, you cannot make health care decisions for yourself);
- for you, but only when you cannot make health care decisions for yourself.

Q: What if I want to name a different agent?

A: You can execute a new HCPOA, which automatically revokes the earlier document.

Q: Will my agent make choices I would want?

A: Your agent must make decisions consistent with your HCPOA instructions, but it is wise to discuss your wishes with your agent.

Q: Can my agent make any and all decisions about my health care treatment?

A: No. For example, your agent cannot:

- order the withdrawal of life-sustaining treatment unless two physicians confirm you are in a terminal condition or permanently unconscious state with no reasonable possibility of making decisions;
- order the withdrawal of artificially or technologically supplied nutrition or hydration unless you are terminally ill or permanently unconscious and two physicians agree that nutrition and hydration will no longer provide comfort or relieve pain;
- order the withdrawal of health care treatment you have previously consented to, unless the treatment is no longer helpful;
- order the withdrawal of treatment given for comfort care or to relieve pain; or
- (if you are pregnant) refuse or withdraw informed consent to health care, if either would end your pregnancy, unless the pregnancy or health care would create a substantial risk to your life or two physicians determine that the fetus would not be born alive.

Q: Can my health care power of attorney agent make end-of-life decisions for me?

A: Yes. Many people use a living will to directly dictate their end-of-life instructions, which removes the burden of end-of-life decisions from your health care power of attorney agent. If,

however, you choose to have only a health care power of attorney, you are authorizing your agent to make all health care decisions, including the use or termination of life-support and artificial nutrition and hydration, subject to the restrictions noted above.

Q: Must I choose a family member to be my health care power of attorney agent?

A: No. You may appoint any adult you wish, except for your doctor or the administrator of a health care facility in which you are being treated, or any employee of your doctor or a health facility in which you are being treated.

Q: Can I use a health care power of attorney to take care of my mother’s finances?

A: No. You must use a different (“financial”) power of attorney document to address your mother’s business affairs.

Q: Can I use a health care power of attorney to nominate a guardian for me, my minor children, or my adult disabled children?

A: Yes. With a health care power of attorney, you can usually avoid the need for a guardian, but you can nominate a guardian through this document. Your guardian should be someone you trust to handle your person, your estate, or both (and those of your minor or adult disabled children). You may also allow the guardian you name to nominate a successor guardian.

Q: Where can I find a health care power of attorney form? Can I draw up my own?

A: The Ohio State Bar Association has developed standard health care power of attorney and living will forms with Midwest Care Alliance, the Ohio State Medical Association, the Ohio Hospital Association and the Ohio Osteopathic Association. For a copy of these forms, visit www.midwestcarealliance.org or ask your physician or attorney. You do not have to use the standard form, but the standard form is widely recognized, and includes the necessary specific language required by Ohio law.

Q: What do I do after I complete my health care power of attorney?

A: Make several copies. Keep copies with your personal papers and in your car, and give copies to your agent, family members, your physician and your lawyer.

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This “Law You Can Use” column was provided by the Ohio State Bar Association. It was prepared by Lima attorney Michelle Baumeister.



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