

Durable Power of Attorney for Health Care and Appointment of a Patient Advocate

The Michigan Legislature authorized use of a Durable Power of Attorney for Health Care in our state. By creating a Durable Power of Attorney for Health Care, you can appoint another individual to make decisions concerning your care, custody, and medical treatment when you are unable to participate in medical treatment decisions.

The Durable Power of Attorney for Health Care ensures that you desire to accept or refuse medical treatment is honored when you are unable to participate in medical treatment decisions.

HOW DOES IT WORK?

The creation of a Durable Power of Attorney for Health Care is a simple matter. A person who wishes to create a Durable Power of Attorney for Health Care is called the Patient. The Patient appoints another individual to act as the Patient's Advocate. To appoint an advocate, the Patient fills out a written document called a Designation of Patient Advocate Form.

WHAT DOES IT DO?

The Durable Power of Attorney for Health Care provides many benefits for you and your family. When you are unable to participate in medical treatment decisions, a Patient Advocate is authorized to make *any* medical treatment decision that you could make on your own behalf, subject to the limitations set forth in your Designation Form and as limited by law. A Patient Advocate's powers are not limited to decisions concerning medical treatment itself, but also extend to any determination concerning your care and custody.

WHAT IS THE PHYSICIAN'S ROLE?

Your attending physician plays an important role in the implementation of the Durable Power of Attorney for Health Care. The Patient Designation Form is made part of your medical records, and your attending physician and another physician determine whether you are able to participate in medical treatment decisions. While you are unable to participate in medical treatment decisions, the physician obtains informed consent from the Patient Advocate.

WHAT ARE THE LIMITS OF A DURABLE POWER OF ATTORNEY FOR HEALTH CARE?

The Durable Power of Attorney for Health Care has several limitations. A Designation Form can be filled out only when you are 18 years of age or older and of sound mind. In addition, a Patient Advocate's powers become effective only while you are *unable* to participate in medical treatment decisions. Therefore, planning prior to your possible inability to participate in medical treatment decisions is extremely important.

A Patient Advocate may decide to withhold or withdraw life-sustaining treatment, but only if you have expressly authorized this in a clear and convincing manner and have acknowledged that death could result. This power is always subject to your current desire to be provided life-sustaining treatment, and it cannot be exercised on behalf of a pregnant Patient whose death would result. Although under these limited circumstances a Patient Advocate may decide to withhold or withdraw life-sustaining treatment, it should be clearly understood that the Legislature has neither approved nor authorized any form of suicide or homicide, including medically assisted suicide and euthanasia.

A Patient Advocate's powers are limited in other ways as well. You have the right to revoke a Designation at any time. Even if you are unable to participate in medical treatment decisions, you may still revoke the Designation at any time and in any manner by which you are able to communicate an intent to revoke.

DO I HAVE TO APPOINT A PATIENT ADVOCATE?

You have the option to appoint a Patient Advocate but cannot be required to do so. Health and life insurers cannot discriminate against individuals who complete or do not complete a Designation Form. In addition, physicians and other health care providers cannot require you to appoint a Patient Advocate as a precondition to providing health care services.

IS A DURABLE POWER OF ATTORNEY FOR HEALTH CARE DIFFERENT THAN A "LIVING WILL" OR "MEDICAL DIRECTIVE?"

A Designation Form is not a "living will" or a "medical directive." Both a "living will" and a "medical directive" permit you to state your wishes not to receive life-sustaining treatment if you are terminally ill and the treatment would only artificially prolong the dying process. However, Michigan statutory law does not recognize the so-called "living will" or "medical directive," and they thus provide little assurance that your wishes will be carried out. There are no special legal protections for doctors who voluntarily choose to follow your instructions as stated in the "living will" or "medical directive."

A properly implemented Durable Power of Attorney for Health Care under Michigan law gives physicians legal protection for their actions. Unlike either the "living will" or "medical directive," the Durable Power of Attorney for Health Care applies in *all* situations in which you are unable to make health care decisions for yourself, not just when you are terminally ill. A Durable Power of Attorney for Health Care allows you to state *any* desires you may have concerning care, custody and medical treatment decisions, including a desire that you receive maximum treatment when you are terminally ill or desires concerning health matters unrelated to terminal illness. Only a Durable Power of Attorney for Health Care allows you to choose someone you trust and who knows you well enough to make health care decisions for you. By discussing your health care desires with the person you have selected, you can best ensure that your

wishes will be respected if any unforeseen illness or injury leaves you unable to decide for yourself.

WHO CAN YOU APPOINT TO MAKE HEALTH CARE DECISIONS FOR YOU?

You may appoint almost any adult to be your Patient Advocate. You may select a member of your family such as a spouse or adult child, a friend, or someone else you trust. However, before you fill out a Designation Form, you should discuss the matter with the person you have chosen and make sure that person understands and agrees to accept the responsibility by signing the Acceptance of Patient Advocate portion of the Designation Form.

You may identify more than one person who is willing to make health care decisions for you. If the person you select as your Patient Advocate is unable or unwilling to act on your behalf, your physician may rely on decisions made by one of your Successor Patient Advocates. You should not choose a person who is reluctant to participate.