

## **Health Care Provisions in a Power of Attorney**

A power of attorney usually deals with financial matters, but can also address medical issues. Under Pennsylvania law, a patient's expressed wishes concerning medical treatment will generally be upheld.

The law allows an agent, appointed by you in your power of attorney, to authorize admission to a medical, nursing, residential or similar facility, and to enter into agreements for your care if you so state. The agent may, with respect to your admission to a facility, execute consent or admission forms required by the facility and enter into agreements for your care by a facility or elsewhere. The law also allows you to authorize your agent to arrange for and give consent for medical, therapeutic, and surgical procedures, including the administration of medications. If one person is to act as your agent for your financial affairs and another as agent for your health care, you generally need to create two separate power of attorney documents.

A living will, described below, is a separate document which allows you to specify your intent regarding medical decisions in end-of-life situations. A living will is sometimes incorporated into a power of attorney, but is also commonly a separate document. You and your lawyer must be careful that these documents complement and do not conflict with one another. Finally, a power of attorney can, if you wish, give your agent the authority to make an anatomical gift of all or part of your body.

## **Health Care Power of Attorney and Living Wills**

In 2007 the legislature enacted a law containing a Combined Form of Durable Health care Power of Attorney and Health Care Treatment Instructions and a Living Will. You have the right to decide the type of health care you want, in the event you become unable to understand, make, or communicate decisions about medical care. Your wishes for medical treatment are most likely to be followed if you express those wishes in advance by:

    naming a health care agent to decide treatment for you; and

    giving health care treatment instructions to your health care agent or health care provider.

An advance health care directive is a written set of instructions expressing your wishes for medical treatment. It may contain a Durable Health Care Power of Attorney, where you name a person called a "health care agent" to decide treatment for you, and a Living Will, where you tell your health care agent and health care providers your choices regarding the initiation, continuation,

withholding or withdrawal of life-sustaining treatment and other specific directions, if you wish. If you do not write down your wishes about your health care in advance, and if later you become unable to understand, make or communicate these decisions, those wishes may not be honored because they may remain unknown to others.

You should give a copy of your advance health care directive (a living will, health care power of attorney or a document containing both) to your health care agent, our physicians, family members and others whom you expect would likely attend to your needs.

The Living Will becomes operative only if you are unable to make and communicate your own decisions when you have an end-stage medical condition (which will result in death, despite the introduction or continuation of medical treatment) or if you are in an irreversible vegetative state and there is no realistic hope of significant recovery. A Living Will contains treatment instructions only under those circumstances.

Anyone of sound mind who is 18 years of age or older or who graduated from high school or has married may execute a living will at any time. The Pennsylvania law states that the document must be witnessed by two individuals each of whom are 18 years of age or older. Other states may require that the living will is acknowledged by a Notary Public, though notarization is not required in Pennsylvania. (Only two witnesses are required.) Hospitals and nursing homes must by law provide patients with information concerning living wills. However, declarations are optional and no entity can charge a different fee depending on whether a living will has been signed.