

In your MPOA, you select the person who will make health care decisions for you and give that person instructions about your medical treatment. These instructions should include treatments you do or do not want, such a life sustaining measure and relief from pain.

It is a bit of an understatement to say that your patient agent should be someone you trust. Your patient agent's decisions will literally be a "matter of life or death" - yours!

You may name only one or more agents at a time. The agent, of course, may consult with family members, doctors or your pastor in making decisions. You should also name a successor agent (or agents) who may act on your behalf if your first agent is unable or unwilling to do so.

You can always change your HCPOA or revoke it entirely. It is a very good idea to review it periodically to ensure that it continues to reflect your wishes. Some HCPOA forms include spaces for you to sign and date a statement to that effect after your review.

Of course, your HCPOA should also reflect the teaching of the Catholic Church on the sanctity of life. Pope John Paul II's encyclical, *Gospel of Life*, gives excellent guidance in making these life decisions.

After you have created and formalized your HCPOA, you should furnish a copy to your patient agent and successor agents, your physician, your pastor and anyone else who may be involved in your medical treatment. These people will then have a clear understanding of your wishes and instructions about your treatment when you are unable to make medical decisions for yourself.

The Living Will

A statutory living will is a written statement of your wishes regarding your medical treatment if you are in a terminal condition. It is only effective if two physicians have determined you are terminally ill.

Statutory living wills only apply to decisions regarding "life-sustaining treatment" in the event of a "terminal illness." A terminal illness does not include Alzheimer's Disease, dementia or coma.

The living will provides clear evidence of your wishes concerning medical care and treatment and will help ensure that the agent and physicians carry out your wishes.

This brochure is for your information on powers of attorney and the designation of patient advocates, and is not intended to be legal advice. You should consult with your attorney for the planning and drafting of such documents.

This Publication has been adapted with permission from the Archdiocese of Detroit.



Office of Development

P.O. Box 137

Dodge City KS 67801

(620) 227-1537

www.dcdiocese.org

Revised 8/09

*"E*ntrust your
works to the Lord,
and your plans
will succeed.

Proverbs 16:3

*Durable
Powers:
What are they
and who needs
them?*

Durable Powers: What are They and Who Needs Them?

In the Old Testament, the prophet Isaiah told King Hezekiah, who was ill, “Thus says the Lord: ‘Put your house in order,’” (2 Kings 20:1).

As disciples of Jesus Christ, “putting our house in order” should be the overarching principle of our estate planning, as with all our undertakings. For as faithful stewards, we believe that all we are and possess belongs to God, We are merely caretakers, and therefore must arrange our personal and financial matters in good order.

Who will handle our affairs when we cannot is an important question to answer when we discuss our will and estate plan. But an equally important question—and one not often raised—is, “Who will handle our affairs if we are alive but disabled?” In modern living, it is not unusual for a person to become incapable of making important decisions because of an accident, illness, Alzheimer’s disease or other such tragic event.

For example, assume you and your spouse jointly own real estate. You are in an automobile accident that leaves you in a coma for several weeks. Who will sign the deed for you if it becomes necessary to sell the real estate? Who will make your medical treatment decisions?

Should such a situation occur, it would be very important that you have carried out a valid durable powers of attorney, authorizing someone to act for you. Otherwise, your family must go to court to have a guardian and conservator appointed to handle your personal and financial matters, including health care. Court proceedings are expensive, and

since they are public hearings, can be very embarrassing for a family. And numerous legal and family emotional problems can arise over issues of health care if you are unable to make medical decisions for yourself.

Durable power of attorney for property and financial matters

A power of attorney (POA) for property and financial matters is a legal document by which you authorize your spouse, relative, friend or bank to act as your “agent” or “attorney-in-fact.”

Your POA should list in detail the powers you are conferring on your agent. These powers could include such matters as signing checks, making bank deposits, signing deeds, paying bills, selling real property and investments, exercising options to buy stock or other property, handling legal matters, handling retirement and other employment benefits, filing tax returns, making gifts to family and charities, and executing forms to represent you before the Internal Revenue Service and other government agencies. You should consider your specific circumstances in enumerating the power you give your agent.

An ordinary POA is invalid if you become unable to make decisions—making a POA useless since that is precisely when you need it. Therefore, you should specify in your POA that your agent has the authority to handle your affairs even if you become unable to make decisions. This language makes a POA a “general durable power of attorney” (GDPOA).

You may provide that your GDPOA is effective upon your signing it, or alternatively, only if you become incapacitated. If you

choose to have it effective upon you becoming incapacitated, your GDPOA must provide how your capacity will be determined. For example, your document could require two medical doctors to make a written statement that in their professional judgment you are incapable of handling your affairs. While this sounds simple, some doctors are reluctant to make such statements. If this happens a court—after a proper hearing—would have to declare you unable for your GDPOA to be effective.

Your agent will have a lot of authority over your property and financial affairs, so name someone you trust to handle your matters capably and who will act prudently in your best interest. He or she should keep accurate records of transactions undertaken for you.

You may always revoke your GDPOA if you are able and do so in writing. If you are not able, others interested in your welfare who believe your agent has abused his or her authority can petition the court to appoint a conservator to handle your affairs.

Carrying out your GDPOA has many ramifications. This document should be an integral part of your estate plan. You should consult with your attorney who prepares your will and other estate planning documents for advice on creating a GDPOA that suits your needs.

Medical Power of Attorney

A medical power of attorney (MPOA) authorizes a person to make health care decisions for you when you are unable to do so. An MPOA is also called a Designation of Patient Advocate or Durable Power of Attorney for Health Care.