

# PLANNING FOR CARE:

## *The Step by Step Process*



Many of us are woefully ill-prepared to deal with the various issues that come up around the complex issues of caring for the elderly. There are often multiple issues to think of and things seem to change all the time. Part of planning for eldercare issues involves careful planning so that, when things come up, there has been created a plan for it. Flexibility is a must when it comes to eldercare. It takes the work of several family members to both plan and execute the “care plan” of the elderly person.

There are several things that need planning for:

- A healthcare plan in the event of declining health (Living Will or Advanced Directives)
- A healthcare power of attorney
- A durable power of attorney
- Out of home directives

### *Living Will Sample*

The following sample of a living will is just what its name implies. It is nothing more than a possible sample that may be used. Individuals preparing a living will may include other directions or be more or less specific.

#### DECLARATION

I, \_\_\_\_\_ name of declarant \_\_\_\_\_, being of sound mind, willfully and voluntarily make this declaration to be followed if I become incompetent. This declaration reflects my firm and settled commitment to refuse life-

- Estate planning
- Conservatorship

It pays to solicit the help of an attorney for estate planning and it pays to have a doctor or nurse help with some of the health issues. Whether or not you can afford help, the following advice should help you find your way through the morass of elderly care.

#### **LIVING WILL OR ADVANCED DIRECTIVES**

These are essentially the same and involve creating a form that tells the family and the doctors when and how to treat the elderly person under specifically designed health situations. If you don't want to be artificially fed or receive chemotherapy, this is a choice available to you with a living will. Doctors recommend that all adults, and especially the elderly, have a living will so their wishes are known in advance of the potential illness.

A living will or advanced directives is placed in a patient's medical file and with the patient's personal files to be used in the event the patient cannot speak for themselves. They are legally binding in every state but are sometimes not followed by the doctor even though, to do so is to prevent the overtreatment of the terminally ill patient or to prevent treatment the patient is ethically opposed to.

The following is a simple example of what a living will can look like:

sustaining treatment under the circumstances indicated below.

I direct my attending physician to withhold or withdraw life-sustaining treatment that serves only to prolong the process of my dying, if I should be in a terminal condition or in a state of permanent unconsciousness. I direct that treatment be limited to measures to keep me comfortable and to relieve pain, including any pain that might occur by withholding or withdrawing life-sustaining treatment.

In addition, if I am in the condition described above, I feel especially strongly about the following forms of treatment:

I do do not want cardiac resuscitation.

I do do not want mechanical respiration.

I do do not want tube feeding or any other artificial or invasive form of nutrition (food) or hydration (water).

I do do not want blood or blood products.

I do do not want any form of surgery or invasive diagnostic tests.

I do do not want kidney dialysis.

I do do not want antibiotics.

I realize that if I do not specifically indicate my preference regarding any of the forms of treatment listed previously, I may receive that form of treatment.

Other instructions:

I do do not want to designate another person as my surrogate to make medical treatment decisions for me if I should be incompetent and in a terminal condition or in a state of permanent unconsciousness.

Name and address of surrogate (if applicable):

Name and address of substitute surrogate (if surrogate designated above is unable to serve):

I made this declaration on the \_\_\_\_\_ day of \_\_\_\_\_ (month, year).

Declarant's address:

The declarant or the person on behalf of and at the direction of the declarant knowingly and voluntarily signed this writing by signature or mark in my presence.

Witness' signature: \_\_\_\_\_

Witness' address: \_\_\_\_\_

Witness' signature: \_\_\_\_\_

Witness' address: \_\_\_\_\_

## **A HEALTHCARE POWER OF ATTORNEY**

This is a situation in which an individual gives the right to another individual, usually a family member or close friend of the family or individual, to make medical decisions on behalf of the individual if he or she is not able to make such a decision themselves. It is legally binding in almost all states and is notarized.

The following is an example of what a healthcare power of attorney looks like:

## MEDICAL POWER OF ATTORNEY

Effective Upon Execution

I, [NAME], a resident of [ADDRESS. COUNTY, STATE]; Social Security Number [NUMBER] designate [NAME], presently residing at [ADDRESS], telephone number [PHONE NUMBER] as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. For the purposes of this document, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care,

treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

Limitations: [Describe any desired limitations, for example, concerning life support, life-prolonging care, treatment, services, and procedures.]

Inspection and Disclosure of Information Relating to My Physical or Mental Health: Subject to any limitations in this document, my agent has the power and authority to do all of the following:

1. Request, review, and receive any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records;
2. Execute on my behalf any releases or other documents that may be required in order to obtain this information;
3. Consent to the disclosure of this information.

**ADDITIONAL POWERS:** Where necessary to implement the health care decisions that my agent is authorized by this document to make, my agent has the power and authority to execute on my behalf all of the following:

1. Documents titled or purporting to be a "Refusal to Permit Treatment" and "Leaving Hospital Against Medical Advice";
2. Any necessary waiver or release from liability required by a hospital or physician.

**DURATION:** This power of attorney exists indefinitely from its date of execution, unless I establish herein a shorter time or revoke the power of attorney.

[If applicable: This power of attorney expires on [DATE]. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent shall continue to exist until such time as I become able to make health care decisions for myself.]

**ALTERNATIVE AGENT:** In the event that my designated agent becomes unable, unwilling, or ineligible to serve, I hereby designate [NAME], presently residing at [ADDRESS], telephone number [PHONE NUMBER] as my first alternate agent, and [NAME], presently residing at [ADDRESS], telephone number [PHONE NUMBER] as my second alternate agent.

**PRIOR DESIGNATIONS REVOKED:** I revoke any prior Medical Power of Attorney.

**LOCATION OF DOCUMENTS:** The original copy of this Medical Power of Attorney is located at [Location]. Signed copies of this Medical Power of Attorney have been filed with the following individuals and institutions: [Names and Addresses].



I sign my name to this Medical Power of attorney on the date of [DATE], at [ADDRESS, COUNTY, STATE].

\_\_\_\_\_  
NAME

### STATEMENT OF WITNESSES

I hereby declare under penalty of perjury that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this durable medical power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence. I am not the person appointed an agent by this document. I am not related to the principal by blood, marriage, or adoption. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Subscribed and sworn to before me on [DATE].

\_\_\_\_\_  
Notary Public, [COUNTY, STATE]

My commission expires \_\_\_\_\_.

### DURABLE POWER OF ATTORNEY

A durable power of attorney (POA) or letter of attorney is an authorization to act on someone else's behalf in a legal or business matter. This person might also handle medical matters on behalf of the other individual. The person authorizing the other to act is the principal, granter or donor (of the power), and the one authorized to act is the agent, the attorney-in-fact, or in many Common Law jurisdictions, simply the attorney even though they do not have to be an attorney..

A power of attorney may be oral and whether witnessed or not, will hold up in court, the same as if it were in writing. For some purposes, the law requires a power of attorney to be in writing. Many institutions, such as hospitals, banks and, in the United States, the Internal Revenue Service, require a power of attorney to be in writing before they will honor it, and they will usually keep an original copy for their records. The power of attorney can give the family member

of the elder the ability to manage the elderly person's finances in the event of incapacitation. It also gives them the same rights as the healthcare power of attorney.

**What to do if the Elder cannot live at Home**  
This is something a family and the elder must get together to discuss. There may come a time when the elder is unable to care for oneself at home due to a mental or physical infirmity. The family must decide if there is someone that can care for the elderly person in their home or whether the individual needs adult day care, assisted living services, in-home health aides or a skilled nursing home. The family needs to determine who should do what and how the individual services are to be paid. Remember that almost all of the above services are very expensive, especially if they are needed for months or years. Eventually, whatever savings an elder has will be exhausted and it falls on Medicare, Medicaid or the kindness of the family to continue to pay for the

services of the individual's care.

All of this can be written down or decided on informally. The important thing is that the discussion is had before the incapacitation of the elderly person and that a plan is in place for every possibility.

## **ESTATE PLANNING**

Ideally, estate planning and funeral planning should be done as soon as possible in an adult's life and updated throughout the years but, all too often, it is done when the individual is older and is contemplating what to do about their funeral and their estate after they are gone. This might need to be done by an attorney or with the advice of an attorney to draw up any wills or trusts that might need to be done. In addition, funeral preplanning can be done at the funeral home of the individual's choice and can even

be prepaid. The individual can plan all the details of their funeral and prepay for it at today's prices, knowing that all will be in place at the time of their death. Good funeral homes will discuss things like music, pall bearers and flowers, too.

## **CONSERVATORSHIP**

In some cases, an elderly person is considered too vulnerable to handle his or her life and finances and they need to be assigned a conservator to manage these things. It is like having a guardian to look over the elderly person. The conservator could be a family member or a trusted attorney who manages the elder's finances and makes sure their living situation is appropriate for them. The elder gives up some rights when they have a conservator assigned to them and cannot just go on a buying spree, for example.

