



Over 45 Years of Service

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## **FAQs: DURABLE MEDICAL POWER OF ATTORNEY**

### ***Who needs one?***

Everyone 18 or over, because disability is more likely than death. Chances of being disabled are 7½ times more likely than death for a 22 year old and 4½ times more likely for a 62 year old.

### ***What is it?***

It is a legal document that enables you, the principal, to appoint a person as your agent to make health care decisions on your behalf when you are unable to make them yourself. This power only becomes effective when you are incapacitated, so you remain in complete control until then.

### ***Where do you keep it?***

We recommend that you keep all the originals of your legal documents in the fireproof safe at your attorney's office. You should give copies to your doctors and hospitals.

### ***When do you renew it?***

It is valid until you revoke it, but it should be renewed every five years. You need to update the document to keep the information current, such as when the phone numbers of your agents change. The people who accept this document do not like old documents.

### ***How do you select an agent and the backup agents?***

You should make these decisions with care. The people you choose must know your wishes and be capable of honoring them. The only way to ensure this is by discussing your wishes with the agents ahead of time.

### ***What happens if you become incapacitated and don't have one?***

A special guardian must be appointed by the court, which is expensive and time consuming. You could be forced to submit to treatment that is against your religious beliefs or denied access to the type of treatment you wanted. It is a lose-lose situation.

### ***If I have a Living Will do I need a Medical Power of Attorney for Health Care?***

Yes, because they deal with different situations. The Living Will deals with terminal medical issues, while the *Medical Power of Attorney* deals with all other medical related issues. In addition, they are designed to work together to ensure that you have the document that a person in power will honor.

### ***Can my spouse make these decisions without a power of attorney?***

No, only you can consent to or reject medical treatment, make contracts to pay, or sign waivers. These can only be done by you or your agent without going to court.

***How is it different from the Durable General Power of Attorney?***

The *Durable General Power of Attorney* becomes effective immediately and deals with property management issues. The *Medical Power of Attorney* is not effective until needed and deals with health care issues. Although, the *Durable General Power of Attorney* is designed to be a backup to the *Medical Power of Attorney* by granting the same medical powers in case someone in position of power wants one label and not another.

***What do I do if someone refuses to honor the Medical Power of Attorney?***

First your attorney should be called. He may be able persuade this person by explaining the law to him or his superiors. If this is unsuccessful, you petition the court and it will force them to honor it. The law provides an expedited process to deal with this situation. In addition, when you win the other side pays your legal costs.

***How do I handle the situation where I am in a hospital in a foreign country and do not have a copy of my Medical Power of Attorney with me?***

You will never be in this situation if you follow our advice and have your attorney make certified copies for you to take on your trip. If you fail to do this, you must contact the attorney and have certified copies faxed to you.

***What happens when the second named agent is available at the hospital but not the first named agent and decision must be made right away?***

This is not a problem. The document is designed to allow the backups to act when an agent listed before them is unavailable. This means your agents may act immediately.

***How do people know that I have Medical Power of Attorney?***

If you follow our recommendations of telling your family about it and carrying the *Wallet Information Card*, in the event of an emergency, whoever finds you or provides you with medical treatment will know that you have one, where it is, and who to call. You will be sure that your wishes are followed.

***If I have a Medical Power of Attorney, under what circumstances will I also need a guardianship?***

When you become unable to make rational decisions, but are unable to realize it. Your agent may petition the court to be appointed your guardian. This will give him the legal power to protect you and will prevent your irrational decisions from binding you.

***What relationship will the agent have with my estate planning attorney?***

Not as involved as under a *Durable General Power Of Attorney*, but the attorney will assist the agent in assuring that the document is honored and in working with the agent under the general power to pay for all your medical care.