

WHO DECIDES THAT I AM TERMINALLY ILL OR PERMANENTLY UNCONSCIOUS?

If you have indicated you do not want to prolong suffering in order to maintain life through artificial means (e.g., breathing tube, dialysis, IV nutrition, etc.), and would choose to allow a natural death, two doctors who have examined you must agree you have a terminal condition or illness. A terminal disease, injury or illness is an irreversible, incurable condition that will result in death regardless of treatment. "Permanently unconscious state" means you are permanently unaware of yourself and your surroundings.

WOULD MY FAMILY BE NOTIFIED BEFORE DOCTORS STOP LIFE-SUPPORT TREATMENTS?

Very likely, yes. Although doctors do not need your family's permission to follow the instructions provided through your living will, they must make reasonable efforts to notify a person named in your living will before following your instructions to withdraw life-support. If the person notified feels your living will is not being properly followed, or is not legally valid, an immediate hearing can be scheduled in probate court to decide if there is a legal reason why your instructions should not be followed. Bylaw, no one can change or overrule your living will if it was freely and correctly executed.

IF I HAVE A LIVING WILL, SHOULD I HAVE A HEALTH CARE POWER OF ATTORNEY, TOO?

Yes. Many people will want to have both documents, because a living will only applies in limited end-of-life circumstances, whereas a health care power of attorney covers all other situations concerning your medical care whenever you cannot make health care decisions for yourself. If, however, you choose to have only a health care power of attorney, you can give your agent the authority to make end-of-life decisions.



"TAKING THE COURTHOUSE TO THE COMMUNITY!"

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LIVING WILLS AND HEALTH CARE POWER OF ATTORNEY



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WHAT IS A HEALTH CARE POWER OF ATTORNEY?

A health care power of attorney (or durable power of attorney for health care, sometimes known as a DPOA or health care proxy) is a legal document that authorizes another person (your agent) to obtain your health information and to make healthcare decisions for you. You can allow your agent to get your health information and communicate with your health care provider at any time, but health care decisions can be made for you only if and when you cannot make healthcare decisions for yourself.

A HEALTH CARE POWER OF ATTORNEY:

- Names an individual you trust to make a wide variety of health care decisions for you at any time you cannot do so for yourself, whether or not your condition is terminal;
- Requires the person you appoint to make decisions that are consistent with your wishes; and
- Will not overrule a living will if you have both documents.

ARE THERE ANY DECISIONS ABOUT MY HEALTH CARE TREATMENT THAT MY AGENT CANNOT MAKE?

Yes. There are limits to the decisions your agent can make. Your agent cannot:

- Order the withdrawal of life-sustaining treatment unless two physicians have confirmed that you are in a terminal condition or permanently unconscious state, and that there is no reasonable possibility that you will be able to make decisions;
- Order the withdrawal of artificially or technologically supplied nutrition or hydration unless you are terminally ill or permanently unconscious and two physicians agree that nutrition and hydration will no longer provide comfort or relieve pain;
- Order the withdrawal of health care treatment you have previously consented to, unless your condition has changed so much that the treatment is significantly less beneficial to you, or is not achieving its purpose;
- Order the withdrawal of health care treatment you have previously consented to, unless your condition has changed so much that the treatment is significantly less beneficial to you, or is not achieving its purpose;

- Order the withdrawal of treatment intended to give you comfort care or to relieve pain; or
- Refuse or withdraw informed consent to health care if you are pregnant, if the refusal or withdrawal would end your pregnancy, unless the pregnancy or healthcare would create a substantial risk to your life or two physicians determine that the fetus would not be born alive.

IF I WANT TO DESIGNATE SOMEONE TO MAKE HEALTH CARE DECISIONS FOR ME, MUST IT BE A MEMBER OF MY FAMILY?

No. You may appoint any adult you wish as long as it is not your doctor or the administrator of a health care facility in which you are being treated, or any person employed by either your doctor or a health facility in which you are being treated.

MY MOTHER IS IN A NURSING HOME. IF SHE MADE ME HER AGENT UNDER HER HEALTH CARE POWER OF ATTORNEY, COULD I ACT ON HER BEHALF IN EVERY AREA AFFECTING HER TREATMENT?

Yes, if your mother is unable to make informed healthcare decisions for herself. Also, you can obtain your mother's health care information if your mother has authorized you to do so through her health care power of attorney.

CAN I USE A HEALTH CARE POWER OF ATTORNEY TO TAKE CARE OF MY MOTHER'S FINANCIAL MATTERS?

Yes. The health care power of attorney is usually sufficient to avoid the need for a guardian, but you can name ("nominate") guardians through this document. Your guardian should be someone you trust to handle your person, your estate, or both (and those of your minor or adult disabled children). You may also allow the guardian you name to nominate a successor guardian.

CAN I SPECIFY, IN MY LIVING WILL, THAT I DO NOT WANT CARDIOPULMONARY RESUSCITATION (CPR)?

Yes. You can direct your physician to write a DNR (do not resuscitate) order for you if two doctors have agreed that you are either terminally ill or permanently unconscious, and it is medically appropriate. For more information about DNR orders, see the Ohio State Bar Association's publication, "What you should know about...DNR Orders" or visit the Ohio Department of Health website at www.odh.ohio.gov (phone: 614-466-3975).

IF I AM IN A TERMINAL CONDITION AND I CHOOSE NOT TO PROLONG MY DYING, WHAT WILL THE DOCTOR DO?

Your doctor will avoid life-sustaining treatment including CPR and technologically supplied nutrition and hydration; and he or she will issue a DNR (Do Not Resuscitate) order. Your doctor will also keep you as comfortable and pain-free as possible. In other words, you will be allowed to die naturally.

WHAT IS A MENTAL HEALTH DECLARATION?

Ohio law also allows for the creation of a "declaration of mental health treatment," a document specifically designed to address mental health care concerns. The standard health care power of attorney addresses both physical and mental health issues, but it may be advisable to also have a "declaration of mental health treatment" to indicate strong preferences about certain treatments, medications or doctors. For more information about the declaration of mental health treatment, visit the Disability Rights Ohio website at www.disabilityrightsohio.org/ and type "declaration of mental health treatment" in the search box.

