



# Power of Attorney for Health Care

**Please NOTE:**

“Power of Attorney for Health Care” refers to the **legal delegation of decision-making authority to an agent.**

“Power of Attorney for Health Care **document**” refers to the actual **form.**

## ■ What is a Power of Attorney for Health Care?

A Power of Attorney for Health Care document allows a person, called the principal, to delegate to another person, called the agent (a trusted friend or family member), the power to make decisions regarding health care the principal is unable to make. The document may be used instead of or together with a Living Will. The agent, who does not need to be an attorney, will speak for the principal and make decisions according to the principal’s wishes even when the principal is physically or mentally incapacitated.

## ■ Must an attorney prepare the form for you?

**Although Illinois law does not require that an attorney prepare a Power of Attorney for Health Care document, for proper guidance and to protect your own interests, you may choose to involve your lawyer anyway.**

## ■ What are the advantages of having a Power of Attorney for Health Care?

A Power of Attorney for Health Care is flexible and can apply to a number of situations. It will permit you, if you are the principal, to decide who should make decisions on your behalf rather than leaving the decision-making to the courts. It saves your relatives from the burden of having to make those decisions without knowing your wishes. For example, a Power of Attorney can be used by you to express your wishes about whether or not you want life-prolonging treatments continued if you should ever need them, or to specify under exactly what circumstances you would like such measures continued: for example, you may or may not want to receive life-sustaining measures if you suffer an irreversible coma. You may choose to instruct your agent to withhold food and fluids or to not administer cardio-pulmonary resuscitation (CPR) under certain circumstances.

## ■ **What are the legal requirements or provisions?**

Any person age 18 or older who is a resident of Illinois can create a Power of Attorney for Health Care. The person whom you designate as your agent must be age 18 or over and cannot be your doctor or someone who is paid to provide you with health care services. The Power of Attorney for Health Care document must be signed by you and a witness. And, when exercising the Power of Attorney for Health Care, your agent must use due care when acting for your benefit and must act in accordance with the terms which you have specified in your Power of Attorney for Health Care document. He or she will be liable for any negligent exercise of the duties which you have specified.

## ■ **How long will your Power of Attorney for Health Care last?**

As the principal, you can specify the time when the Power of Attorney for Health Care will begin (unlike a Living Will which can only begin after your attending physician determines that you have a “terminal condition”) and when it will end. In addition, the Power of Attorney for Health Care document can be amended at any time by a written amendment signed and dated by the principal.

You may revoke your Power of Attorney by burning or tearing up the document, by written revocation, or by oral revocation in the presence of a witness 18 years of age or older who then puts the revocation in writing for you. However, if it becomes necessary to terminate the Power of Attorney after you have become incapacitated, legal action may be required to terminate the agent.

Unless you state an earlier termination date, the Power of Attorney for Health Care will continue until your death. If you wish, the Power of Attorney for Health Care can also be effective after death to authorize your agent to deal with an autopsy, anatomical gifts and burial.

## ■ **When should you designate an agent under a Power of Attorney for Health Care?**

The best time for you to create a Power of Attorney for Health Care is right now, long before you anticipate anything happening to you. This will ensure that if you are ever in a situation where you need an agent, you will have one.

## ■ **Will your Power of Attorney for Health Care be recognized in another state?**

Most other states' statutes provide for powers of attorney for health care. However, a problem may arise if that document must be witnessed and/or notarized, as may be required under another state's law. Since there may be variations among state laws, it is suggested that you should have your Power of Attorney for Health Care document both witnessed and notarized.

## ■ **Other things to consider.**

Before executing your Power of Attorney for Health Care document, you should talk to the person who you want to be your agent and review your wishes for the types of medical treatment you choose to receive in the event that your agent must exercise his or her authority under the Power of Attorney for Health Care.

Be careful not to provide your agent with powers that are too broad (which may be subject to abuse or misinterpretation) or too confined (which could make it impossible for the agent to act).

It is advisable for you to specify one or more successor agents to act on your behalf in case the primary agent is unavailable, unable or unwilling to act in your behalf should it become necessary. With all of your agents, the primary consideration should be that the individuals appointed are people in whom you have a great deal of trust and can rely upon to act according to your interests and values. Your Power of Attorney for Health Care document should also state the duties, limitations, immunities and other terms applicable to your agent.

After your Power of Attorney for Health Care document is signed by you, witnessed and notarized (OPTIONAL), you should send the original form to your agent and provide copies to your lawyer, your doctor and to family members or close friends on whom you can rely to act according to your interests and values.

## **Power of Attorney for Health Care Law**

### **Section 4-5. Limitations on health care agencies.**

Neither the attending physician nor any other health care provider may act as agent under a health care agency; however, a person who is not administering health care to the patient may act as health care agent for the patient even though the person is a physician or otherwise licensed, certified, authorized, or permitted by law to administer health care in the ordinary course of business or the practice of a profession.

### **Section 4-6. Revocation and amendment of health care agencies.**

**(a)** Every health care agency may be revoked by the principal at any time, without regard to the principal's mental or physical condition, by any of the following methods:

1. By being obliterated, burnt, torn or otherwise destroyed or defaced in a manner indicating intention to revoke;
2. By a written revocation of the agency signed and dated by the principal or person acting at the direction of the principal; or
3. By an oral or any other expression of the intent to revoke the agency in the presence of a witness 18 years of age or older who signs and dates a writing confirming that such expression of intent was made.

**(b)** Every health care agency may be amended at any time by a written amendment signed and dated by the principal or person acting at the direction of the principal.

**(c)** Any person, other than the agent, to whom a revocation or amendment is communicated or delivered shall make all reasonable efforts to inform the agent of that fact as promptly as possible.

Section 4-7 deals with “**Duties of health care providers and others in relation to health care agencies.**”

Section 4-8 deals with “**Immunities of health care providers, agents and others in relation to health care agencies.**”

### **Section 4-9. Penalties.**

All persons shall be subject to the following sanctions in relation to health care agencies, in addition to all other sanctions applicable under any other law or rule of professional conduct:

- (a)** Any person shall be civilly liable who, without the principal's consent, willfully conceals, cancels or alters a health care agency or any amendment or revocation of the agency or who falsifies or forges a health care agency, amendment or revocation.
- (b)** A person who falsifies or forges a health care agency or willfully conceals

or withholds personal knowledge of an amendment or revocation of a health care agency with the intent to cause a withholding or withdrawal of life-sustaining or death-delaying procedures contrary to the intent of the principal and thereby, because of such act, directly causes life-sustaining or death-delaying procedures to be withheld or withdrawn and death to the patient to be hastened shall be subject to prosecution for involuntary manslaughter.

- (c) Any person who requires or prevents execution of a health care agency as a condition of insuring or providing any type of health care services to the patient shall be civilly liable and guilty of a Class A misdemeanor.

Section 4-10. **Statutory short form power of attorney for health care.**

- [(a) Paragraph (a) sets out the form of the statutory health care power that is included in this document.]
- (b) The statutory short form power of attorney for health care (the “statutory health care power”) authorizes the agent to make any and all health care decisions on behalf of the principal which the principal could make if present and under no disability, subject to any limitations on the granted powers that appear on the face of the form, to be exercised in such manner as the agent deems consistent with the intent and desires of the principal. The agent will be under no duty to exercise granted powers or to assume control of or responsibility for the

principal’s health care; but when granted powers are exercised, the agent will be required to use due care to act for the benefit of the principal in accordance with the terms of the statutory health care power and will be liable for negligent exercise. The agent may act in person or through others reasonably employed by the agent for that purpose but may not delegate authority to make health care decisions. The agent may sign and deliver all instruments, negotiate or enter into all agreements and do all other acts reasonably necessary to implement the exercise of the powers granted to the agent. Without limiting the generality of the foregoing, the statutory health care power shall include the following powers, subject to any limitations appearing on the face of the form:

- (1) The agent is authorized to give consent to and authorize or refuse, or to withhold or withdraw consent to, any and all types of medical care, treatment or procedures relating to the physical or mental health of the principal, including any medication program, surgical procedures, life-sustaining treatment or provision of food and fluids for the principal.
- (2) The agent is authorized to admit the principal to or discharge the principal from any and all types of hospitals, institutions, homes, residential or nursing facilities, treatment centers and other health care institutions providing personal care or treatment for any

type of physical or mental condition. The agent shall have the same right to visit the principal in the hospital or other institution as is granted to a spouse or adult child of the principal, any rule of the institution to the contrary notwithstanding.

- (3)** The agent is authorized to contract for any and all types of health care services and facilities in the name of and on behalf of the principal and to bind the principal to pay for all such services and facilities, and to have and exercise those powers over the principal's property as are authorized under the statutory property power, to the extent the agent deems necessary to pay health care costs; and the agent shall not be personally liable for any services or care contracted for on behalf of the principal.
- (4)** At the principal's expense and subject to reasonable rules of the health care provider to prevent disruption of the principal's health care, the agent shall have the same right the principal has to examine and copy and consent to disclosure of all the principal's medical records that the agent deems relevant to the exercise of the agent's powers, whether the records relate to mental health or any other medical condition and whether they are in the

possession of or maintained by any physician, psychiatrist, psychologist, therapist, hospital, nursing home or other health care provider.

- (5)** The agent is authorized: to direct that an autopsy be made pursuant to Section 2 of "An Act in relation to autopsy of dead bodies," approved August 13, 1965, including all amendments; to make a disposition of any part or all of the principal's body pursuant to the Illinois Anatomical Gift Act, as now or hereafter amended; and to direct the disposition of the principal's remains.

## Illinois Statutory Short Form Power of Attorney for Health Care

Notice: The purpose of this Power of Attorney for Health Care is to give the person you designate (your “agent”) broad powers to make health care decisions for you, including power to require, consent to or withdraw any type of personal care or medical treatment for any physical or mental condition and to admit you to or discharge you from any hospital, home or other institution. This form does not impose a duty on your agent to exercise granted powers; but when powers are exercised, your agent will have to use due care to act for your benefit and in accordance with this form and keep a record of receipts, disbursements and significant actions taken as agent. A court can take away the powers of your agent if it finds the agent is not acting properly. You may name successor agents under this form but not co-agents, and no healthcare

provider may be named. Unless you expressly limit the duration of this power in the manner provided below, until you revoke this power or a court acting on your behalf terminates it, your agent may exercise the powers given here throughout your lifetime, even after you become disabled. The powers you give your agent, your right to revoke those powers and the penalties for violating the law are explained more fully in Section 4-5, 4-6, 4-9 and 4-10(b) of the Illinois “Powers of Attorney for Health Care Law” of which this form is a part (see pages 3-6 of this form). That law expressly permits the use of any different form of power of attorney you may desire. (If there is anything about this form that you do not understand, you should ask a lawyer to explain it to you.)

**POWER OF ATTORNEY** made this \_\_\_\_\_ day of \_\_\_\_\_ (month, year) .

1. I, \_\_\_\_\_  
(insert name of principal)

\_\_\_\_\_ hereby  
(insert address of principal)

appoint: \_\_\_\_\_  
(insert name of agent)

\_\_\_\_\_ (insert address of agent)

as my attorney-in-fact (my “agent”) to act for me and in my name (in any way I could act in person) to make any and all decisions for me concerning my personal care, medical treatment, hospitalization and health care and to require, withhold or withdraw any type of medical treatment or procedure, even though my death may ensue. My agent shall have the same access to my medical records that I have, including the right to disclose the contents to others. My agent shall also have the full power to authorize an autopsy and direct the disposition of my remains. Effective upon my death, my agent has the full power to make an anatomical gift of the following: **(initial one)**

\_\_\_ Any organs, tissues or eyes suitable for transplantation or used for research or education.

\_\_\_ Specific organs: \_\_\_\_\_

(The above grant of power is intended to be as broad as possible so that your agent will have authority to make any decision you could make to obtain or terminate any type of health care, including withdrawal of food and water and other life-sustaining measures, if your agent believes such action would be consistent with your intent and desires. If you wish to limit the scope of your agent's powers or prescribe special rules or limit the power to make an anatomical gift, authorize autopsy or dispose of remains, you may do so in the following paragraphs).

2. The powers granted above shall not include the following powers or shall be subject to the following rules or limitations (here you may include any specific limitations you deem appropriate, such as: your own definition of when life-sustaining measures should be withheld; a direction to continue food and fluids or life-sustaining treatment in all events; or instructions to refuse any specific types of treatment that are inconsistent with your religious beliefs or unacceptable to you for any other reason, such as blood transfusion, electro-convulsive therapy, amputation, psychosurgery, voluntary admission to a mental institution, etc.):

---

---

---

---

(The subject of life-sustaining treatment is of particular importance. For your convenience in dealing with that subject, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. If you agree with one of these statements, you may initial that statement; **do not** initial more than one):

\_\_\_\_\_ I do not want my life to be prolonged nor do I want life-sustaining treatment to be provided  
(Initialed) or continued if my agent believes the burdens of the treatment outweigh the expected benefits. I want my agent to consider the relief of suffering, the expense involved and the quality as well as the possible extension of my life in making decisions concerning life-sustaining treatment.

\_\_\_\_\_ I want my life to be prolonged, and I want life-sustaining treatment to be provided or  
(Initialed) continued unless I am in a coma which my attending physician believes to be irreversible, in accordance with reasonable medical standards at the time of reference. If and when I have suffered irreversible coma, I want life-sustaining treatment to be withheld or discontinued.

\_\_\_\_\_ I want my life to be prolonged to the greatest extent possible without regard to my condition,  
(Initialed) the chances I have for recovery or the cost of the procedures.

(This power of attorney may be amended or revoked by you in the manner provided in Section 4-6 of the Illinois "Powers of Attorney for Health Care Law" (see page 3-4 of this document). Absent amendment or revocation, the authority granted in this power of attorney will become effective at the time this power is signed and will continue until your death, and beyond if anatomical gift, autopsy or disposition of remains is authorized, unless a limitation on the beginning date or duration is made by initialing and completing either (or both) of the following:

3. ( ) This power of attorney shall become effective on \_\_\_\_\_ .  
(insert a future date or event during your lifetime, such as court determination of your disability, when you want this power to first take effect)
4. ( ) This power of attorney shall terminate on \_\_\_\_\_ .  
(insert a future date or event, such as court determination of your disability, when you want this power to terminate prior to your death)

(If you wish to name successor agents, insert the names and addresses of such successors in the following paragraph.)

5. If any agent named by me shall die, become incompetent, resign, refuse to accept the office of agent or be unavailable, I name the following (each to act alone and successively, in the order named) as successors to such agent:

\_\_\_\_\_  
\_\_\_\_\_

For purposes of this paragraph 5, a person shall be considered to be incompetent if and while the person is a minor or an adjudicated incompetent or disabled person or the person is unable to give prompt and intelligent consideration to health care matters, as certified by a licensed physician.

(If you wish to name your agent as guardian of your person, in the event a court decides that one should be appointed, you may, but are not required to, do so by retaining the following paragraph. The court will appoint your agent if the court finds that such appointment will serve your best interests and welfare. Strike out paragraph 6 if you do not want your agent to act as guardian.)

6. If a guardian of my person is to be appointed, I nominate the agent acting under this power of attorney as such guardian, to serve without bond or security.

7. I am fully informed as to all the contents of this form and understand the full import of this grant of powers to my agent.

Signed: \_\_\_\_\_  
(Principal)

The principal has had an opportunity to read the above form and has signed the form or acknowledged his or her signature or mark on the form in my presence.

Witness: \_\_\_\_\_

Residing at: \_\_\_\_\_

**OPTIONAL**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) SS.

The undersigned, a notary public in and for the above state and county, certifies that \_\_\_\_\_, known to me to be the same person whose name is subscribed as principal to the foregoing power of attorney, appeared in person before me and the additional witness and acknowledged signing and delivering the instrument as the free and voluntary act of the principal, for the uses and purposes therein set forth (and certified to the correctness of the signatures of the agent and successors).

Dated: \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
(Notary Public)

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

(You may, but are not required to, request your agent and successor agents to provide specimen signatures below. If you include specimen signatures in this power of attorney, you must complete the certification opposite the signatures of the agents).

Specimen signatures of agent (and successors):

I certify that the signatures of my agent (and successors) are correct:

\_\_\_\_\_  
(Agent)

\_\_\_\_\_  
(Principal)

\_\_\_\_\_  
(Successor Agent)

\_\_\_\_\_  
(Principal)

\_\_\_\_\_  
(Successor Agent)

\_\_\_\_\_  
(Principal)

The Illinois Department on Aging provides complimentary copies of the following forms:

- **Living Will,**
- **Power of Attorney for Health Care and**
- **Power of Attorney for Property.**

For copies, contact the Senior HelpLine:

**1-800-252-8966**

**1-888-206-1327 (TTY)**

**E-mail: [ilsenior@aging.state.il.us](mailto:ilsenior@aging.state.il.us)**

State of Illinois

**Illinois Department on Aging**

421 East Capitol Avenue, #100, Springfield, Illinois 62701-1789

Senior HelpLine: 1-800-252-8966, 1-888-206-1327 (TTY)

[www.state.il.us/aging](http://www.state.il.us/aging)

The Illinois Department on Aging does not discriminate in admission to programs or treatment of employment in programs or activities in compliance with appropriate State and Federal Statutes. If you feel you have been discriminated against, you have a right to file a complaint with the Illinois Department on Aging. For information, call the Senior HelpLine at 1-800-252-8966, 1-888-206-1327 (TTY).