

## A Medical Power of Attorney Can Protect Your Health Care Rights

Decisions regarding medical treatment options can be most difficult when a patient becomes incapacitated. A durable medical power of attorney, or health care proxy, can help assure that the patient's health care decisions are carried out according to his or her own or their designee's wishes.

### Why A Living Will is not Enough

Several cases that made the news in the past, have highlighted the family trauma, confusion, and expense that arise due to a failure to provide complete instructions regarding medical treatment. A living will, which an individual draws up to outline his or her health care preferences in advance (in the event he or she becomes incapable of making and communicating decisions), may not anticipate the broad range of situations and conditions where decisions will need to be made. A living will typically does not appoint a specific decision maker to fill this void.

An alternative to living wills is to assign authority for medical decision-making to a specific person in a "durable medical power of attorney." The typical power of attorney document does not provide for medical decision-making authority, thus there is a necessity for separate designations.

### Benefits of a Durable Medical Power of Attorney

In essence, the durable medical provision allows you to specify, in advance, the person you want to make critical decisions regarding your health care and well-being, should you become incapable of making and communicating these decisions for yourself. This option is particularly useful for elderly people who may fear cognitive impairments in the closing stages of life; people with debilitating or degenerative diseases; or people facing medical treatment that might render them temporarily or permanently incapacitated.

Without a named durable medical power of attorney, frontline health care providers- such as nursing home administrators, some health agencies, and hospital social service departments- may be unclear or conflicted about what the appropriate level of health care is for a particular patient. In many cases, these decisions, such as whether or not to resuscitate a terminally ill patient, are made in a crisis or emergency mode. The absence of a named durable medical power of attorney can result in an inappropriate conservatorship or guardianship that could frustrate the patient's family and that might not meet the patient's wishes.

The durable medical power of attorney provides protection through a legal document (as does a health care proxy) that allows a person to designate an "agent" to make informed choices about health care matters based on, and with respect to, the person's life view and religious, as well as philosophical, beliefs. This document often complements a financial power of attorney and a **revocable trust** providing complete coverage for all planning needs in the event of incapacity.

A durable medical power of attorney can help ensure your wishes, from a health care perspective, are carried out by the person you trust to perform this duty. Be sure to consult with experienced counsel to include this, and other legal documents, in your overall estate plan to ensure your protection.