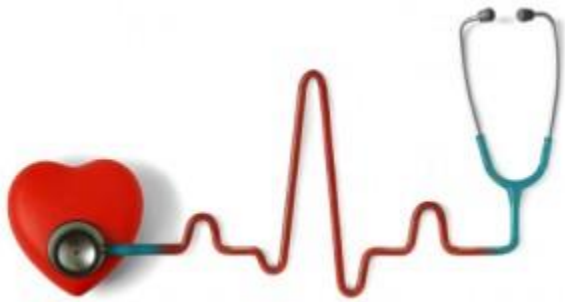


What is a Texas Medical Power of Attorney?

May 6, 2020 by Rania Combs



A Texas medical power of attorney is a document that allows you, the principal, to designate a trusted family member or friend to make medical decisions for you if you become unconscious or mentally incapable of making those decisions for yourself.

The person you designate to make medical decisions for you is called an agent. The medical power of attorney gives your agent broad power to make any health care decisions you could have made if you were not incapacitated, unless you specifically restrict his or her authority.

Medical powers of attorney are not just for the elderly. Unexpected injuries or illness can occur at any age, so all adults should have one in place.

What Are the Requirements of a Medical Power of Attorney in Texas?

To be valid in Texas, a medical power of attorney must either be:

1. signed by you in the presence of two witnesses, who also sign the document;
- or
2. signed by you in the presence of a notary public.

If you are physically unable to sign, another person may sign the medical power of attorney with your name, so long as he or she signs in your presence and at your direction.

Can Anyone be a Witness?

Witnesses who sign a power of attorney must be competent adults. Also, at least one of the witnesses cannot be someone who:

1. you have designated to make health care treatment decisions on your behalf
2. Is related to you by blood or marriage;
3. Is a beneficiary of your estate;
4. has a claim on your estate;
5. is your attending physician;
6. your attending physician employs; or
7. is an employee of a health care facility where you reside, if the employee provides direct care to you or is an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

Signing in front of a notary public eliminates the need for signing in the presence of two witnesses.

When Does a Medical Power of Attorney Become Effective?

The medical power of attorney becomes effective immediately after you execute it and deliver it to your agent. It is effective indefinitely unless it contains a specific termination date, you revoke it.

If the medical power of attorney has a specific termination date, but you are incompetent on that date, the medical power of attorney continues to be effective until you become competent.

When Does the Agent Have Authority to Act?

As long as you are able to make medical decisions for yourself, you are the one in control. However, in the event that you cannot make these decisions, your “agent” can legally make medical decisions for you.

A medical power of attorney authorizes your agent to act on your behalf only after your attending physician certifies in writing and files the certification in your medical records that based on his reasonable medical judgment, you are incompetent.

Regardless of the existence of a medical power of attorney or the declaration of incompetence, the statutes specify no medical provider can give or withhold treatment from you if you object.

Can I Revoke a Medical Power of Attorney?

You can revoke a medical power of attorney by notifying either your agent or your health care provider, orally or in writing, of your intent to revoke.

The revocation will be effective regardless of whether your capacity to make health care decisions. You can also revoke a medical power of attorney by executing a new one. If you appoint your spouse as your agent, a divorce will revoke the medical power of attorney unless you provide otherwise.

Who Makes Makes Medical Decisions if I Don't Have a Power of Attorney

Texas has a statute that outlines who makes medical decisions if you do not have a power of attorney. You can find out more by reading: [Who Makes Medical Decisions If There Is No Power of Attorney](#).

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