

Health Care & Financial Powers of Attorney

A Workshop to Help You Take
Charge of Medical & Financial
Decisions

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UI Clinical Law Program 2009



Why We Are Here Today:

- How to grant someone the power to act on your behalf
- Who you want to act as your agent
- What decisions agents can make
- When the agent could act on your behalf
- Why and when you would want an agent to make decisions for you



Types of Powers of Attorney

- A medical power of attorney is a document that designates an agent to make your medical decisions when you are unable to do so.
- A general power of attorney is a document that designates an agent to make specified financial decisions and transactions on your behalf.



Officer Escobar's Story

- Police officer shot in the line of duty
- Cast
 - Eddie
 - Ex-wife
 - Minor son
 - Fiancé
 - Police Partner
 - Supervisor



Issues and Complications in the ER

- Who makes the call?
- Who should the doctor listen to?
- What do you think Eddie would have wanted?
- What could Eddie have done before to guide or direct the doctors, family and decision-makers?



What is a Durable Power of Attorney for Health Care Decisions?

- A document that designates an agent to make your medical decisions whenever you are unable to do so
- Made by someone who is 18 years of age or older
- It can cover routine, complex and end-of-life decisions
- It is also known as a Medical Power of Attorney or a Health Care Power of Attorney
- *Durable* means that the agent's powers could start at and continue throughout disability



When Does an Agent Make Decisions?

- When you are unable to make your own health care decisions in the judgment of the attending physician
- When a document designating your agent has been properly executed and delivered to the attending physician



Things to Consider When Choosing an Agent?

- Qualities:
 - Trustworthy
 - Willing
 - Available
 - Assertive
 - Diplomatic
 - Knowledgeable of medical conditions and wishes
- Have a backup
- Caution: joint decision-making



When Can You Revoke the Powers of Your Agent?

- At any time and in any manner in which you are able to communicate your intent to revoke, without regard to physical or mental condition
- Either orally or in writing
- By executing a new medical power of attorney



How to Create a Medical Power of Attorney

- The document must contain:
 - Date of execution
 - Your signature
 - The signature of two adult witnesses **or** a notary public
- The agent cannot be:
 - A minor
 - Your health care provider on the date of execution
 - Your health care provider's employee on the date of execution, unless related to you



How Powerful Is the Medical Power of Attorney?

- Recognition in other states
- Informal: not court supervised
- Health Care Agent has priority over your guardian or spouse
- You decide which powers to give your agent



What Happens If You Do Not Have a Medical Power of Attorney?

- Who will the doctors listen to?
 - Spouse? Next of kin? Guardian?
- Typical scenarios: What experience have you had or heard about involving medical decisions?
- Remember Eddie's story



What is a General Power of Attorney?

- A general power of attorney is a document that designates an agent to make specified financial decisions and transactions on your behalf
- Eddie:
 - Access bank accounts
 - Pay medical debts with his account money
 - Make pension and benefits elections
 - File for private and public disability benefits
 - Access safe deposit box



When Can the Agent Make Your Decisions?

- The choice is yours:
 - Immediately regardless of disability
 - Only if a physician gives written certification of your disability
 - Any other specific situation or time-limited event that you choose



General vs. Limited Powers of Attorney

- General: Comprehensive powers to make decisions on your behalf are granted to the agent
- Limited: Only powers specified in the document
- Some agencies have other requirements or forms
 - IRS
 - Social Security Administration



General Power of Attorney

- Pros:
 - Flexible
 - Comprehensive
 - Good for unforeseen situations
- Cons
 - Potential for abuse
 - Possible or perceived loss of autonomy
 - If triggered by disability, it could be difficult to get a physician's certification



Limited Power of Attorney

- Pros
 - Limits the potential for abuse
 - Can specify the agent's powers
- Cons
 - Not as flexible
 - Only foreseeable situations covered
 - If triggered by disability, it could be difficult to get a physician's certification




When Does the Agent's Authority End?

- When you die
- If you revoke the authority in writing
- If your spouse is your agent when your marriage is dissolved or when you are legally separated
- When a court-appointed conservator revokes the agent's powers



What If You No Longer Want an Agent?

- You must revoke the powers in writing
- The written revocation should be sent to the agent, and all banks or other institutions that have a copy of the power of attorney or handle your finances
- After you revoke, who makes decisions for you if you are unable to do so for any reason?



How Powerful Is the Financial Power of Attorney?

- A conservatorship has priority over the agent for financial decisions
- Will it be honored elsewhere?
- Informal: no court supervision
- You decide the powers to give your agent

Medical Power of Attorney v. General Power of Attorney

- Medical Power of Attorney:
 - Only Health Care
 - Only when you can't make decisions
 - Effective until revoked orally or in writing
 - Agent trumps guardian
- General Power of Attorney
 - Only financial and transactional
 - Effective immediately, at disability or at specified event
 - Only revocable in writing
 - Conservator can trump agent



Thank You and Good Luck!

- Use the resource guide and Peace of Mind pamphlet to plan your own future.
- Prepare Your Advance Directives Now!
- Talk with your family, friends, counselors and health care team.