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ADVANCE HEALTH CARE DIRECTIVE (including DURABLE HEALTH CARE POWER OF ATTORNEY and LIVING WILL)

An Advance Health Care Directive is defined by Pennsylvania law as a Health Care Power of Attorney, Living Will or a written combination of a Health Care Power of Attorney and Living Will. For purposes of this article, I will treat the term Advance Health Care Directive as a document which includes both a Durable Health Care Power of Attorney and a Living Will and I will refer to it as your “Health Care Directive.”

What does an Advance Health Care Directive do? Your Health Care Directive can do a number of things. It can appoint someone (your “Agent”) to obtain medical information about you, carry out any advance directions you have given about your health care and, absent specific directions from you, make health care decisions for you.

So what type of powers would my Agent have? Your Agent would have the legal authority to review your health care information, make decisions and perform acts for you as specified in your Health Care Directive. This could include decisions about treatment, perhaps surgery, the power to hire and fire medical, social service and other support personnel responsible for your care and take any actions necessary to do what you have directed.

What if my Agent has a different opinion about my health care than I do? So long as you are physically and mentally capable of communicating with your health care providers, then they will follow your directions. You can revoke your Agent’s authority at any time, so long as you do it in writing and make sure that a copy of the revocation is given to all of those who need to know. Your Agent cannot overrule what you say or make decisions contrary to yours, unless a court has determined that you are not capable of making decisions for yourself, or unless you are unable to make and communicate your decisions in any fashion.

What is a Living Will? A Living Will designates what health care treatment you do or do not want in order to prolong your life once you have been diagnosed to be in a terminal or permanently unconscious condition. Your Health Care Directive may contain your “Living Will” directions, but it also specifies the power of your Agent to make health care decisions for you long before your Living Will directions are needed.

May I make special provisions in my Advance Health Care Directive in the event that I have been diagnosed with severe brain damage or brain disease, such as

Alzheimer's disease? Yes. Your Health Care Directive can provide medical treatment directions if you should suffer from severe and irreversible brain damage or disease, with no realistic hope of significant recovery, and then suffer an intervening, life-threatening condition. Those directions could be the same as your Living Will directions.

I feel strongly about the issue of organ donation. May I make my feelings known in my Advance Health Care Directive? Yes. Your Health Care Directive may state specifically whether you want some or all of your organs donated at the time of your death or not.

If I want to give my Agent discretion in how to carry out my wishes, may I do so? Yes. You can provide in your Health Care Directive that your directions are mandatory, or that they are only guidelines, thereby giving your Agent discretion to make decisions for you taking into consideration the preferences you have stated in your Health Care Directive.

Do I need an Advance Health Care Directive? Most people could benefit from having an Advance Health Care Directive in place, providing that you have family or friends who you trust to act as your Agent. You should discuss your specific situation with your family and your attorney. If you would like to contact us for more information about an Advance Health Care Directive, please call us at (610) 323-7464.

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