

A publication of the Illinois Guardianship and Advocacy Commission

POWER OF ATTORNEY FOR HEALTH CARE

Key features at a glance:

A power of attorney for health care:

- Can cover a wide range of health care decisions or be limited to cover only certain health care decisions, such as those involving mental health treatment.
- Must include a designation of a person as an agent who would have authority to look at your medical records, to make health care decisions for you, and to use your funds to pay for your treatment.
- Need not be witnessed because you are presumed to be competent.
- Becomes effective when you want it to: when signed, on a particular date, or after a particular event.
- Unless you specify otherwise, can be canceled at any time by destroying it, writing your decision to cancel it, or telling another adult of your decision to cancel it.
- Must be followed or your agent must be allowed to find another doctor for you. However, despite your power of attorney, you can be involuntarily hospitalized if you are believed to be dangerous or unable to meet your basic physical needs.
- Unless you specify otherwise, remains effective until you cancel it. Choosing someone to make decisions for you Generally speaking, compared to a declaration for mental health treatment, a power of attorney gives you more choices when you want to direct your future health care. First of all, in a power of attorney, you can direct how decisions will be made regarding any type of health care. Unless you limit it, a power of attorney will be interpreted as broadly as possible and will cover all types of health care decisions, not just mental health care decisions. There are other ways in which a power of attorney gives you more choices than a declaration for mental health treatment, and they will be explained in the following sections. There is at least one important way, however, in which a power of attorney is less flexible than a declaration for mental health treatment. If you complete a power of attorney, you must designate a person who has the authority to make health care decisions for you. In a power of attorney, this person is called an agent. Although you must designate a person to be your agent, that person does not have to serve as your agent and may choose not to make health care decisions for you. If the agent does make decisions for you, he or she must do so in accordance with the terms of the power of attorney. There are restrictions on who can be your agent. Neither your doctor nor any other person from whom you are receiving health care can act as your agent.

In addition to making decisions about your treatment, unless you state otherwise, your agent will be able to look at your medical records, including records that describe your mental health treatment, and will be able to use your funds to pay for your treatment.

Expressing your treatment wishes

Besides choosing an agent in your power of attorney, you may express your wishes about your future health care. You do not, however, have to express your wishes; if you do not, your agent must do his or her best to make decisions that would be for your benefit. And, unless you limit the authority of your agent, your agent can make any and all health care decisions that need to be made for you.

If you choose, there are many ways in which you can limit the authority of your agent. For example, as already mentioned, you may decide to limit the power of attorney to cover only mental health treatment or to cover only some types of mental health treatment. Additionally, you can write down the circumstances under which you would want your agent to consent to, or refuse, certain types of treatment.

When the power of attorney becomes effective

In general, a power of attorney becomes effective as soon as you sign it. Thus, as soon as you sign your power of attorney, your agent will have authority to make decisions for you.

You can, however, choose to have your power of attorney become effective at some other time. If you choose, your power of attorney could become effective on a specific date or after a specific event. Thus, for example, you could decide that your power of attorney becomes effective only if you are admitted to a mental health facility.

When your doctor need not follow your power of attorney

Either you or your agent must give your power of attorney to your doctor. Afterwards, as long as your agent is complying with your power of attorney, your doctor must follow the decisions made by your agent. If for some reason your doctor is unwilling to follow your agent's decisions, your doctor must inform your agent and allow him or her to find another doctor for you. Additionally, regardless of your wishes, your agent cannot prevent you from being involuntarily admitted to a mental health facility if you are alleged to be unable to provide for your basic physical needs or reasonably expected to inflict serious physical harm on yourself or someone else in the near future.

Changing or canceling your power of attorney

To change parts of your power of attorney, you must describe the changes you want to make in writing.

On the other hand, unless you specify otherwise, there are many ways you could cancel your entire power of attorney. In addition to putting your decision to cancel the power of attorney in writing, you can tear or destroy the power of attorney, or you can tell another adult about your decision to cancel the power of attorney and ask that person to put your decision in writing for

you.

When the power of attorney expires:

Unless you specify otherwise, your power of attorney will not expire and will be valid for the rest of your life.

The Illinois Power of Attorney Act

You can learn more about powers of attorney, and find the [standard power of attorney form](#), in the [Illinois Power of Attorney Act, 755 Illinois Compiled Statutes 45](#).