



# Your Questions Answered

“Living Will and Health Care Power of Attorney”

**Q: Who should complete a Living Will or Health Care Power of Attorney?**

A: Serious illness or injury can strike at any stage of life, so it is important for anyone over age eighteen to think about filling out these documents. A Living Will or Health Care Power of Attorney will help to ensure that your wishes regarding life-sustaining treatment are followed regardless of your age.

**Q: Can I indicate that I wish to donate my organs after death through a Living Will or Health Care Power of Attorney?**

A: Ohio’s Living Will no longer includes a section to indicate preferences for organ donation. Within this brochure are instructions and a standardized form to register your wishes regarding organ and tissue donation with the Bureau of Motor Vehicles. This is the most appropriate way to document your wishes if you want to be a donor. This form should be filed with the Bureau of Motor Vehicles.

**Q: If I state in my Living Will that I don’t want to be hooked up to life support equipment, will I still be given medication for pain?**

A: Yes. A Living Will affects only care that artificially or technologically postpones death. It does not affect care that eases pain. You would continue to be given pain medication and other treatments necessary to keep you comfortable. The same is true with a Health Care Power of Attorney. The person you name to make your health care decisions may not refuse treatments that alleviate pain.

**Q: Which is better to have, a Living Will or a Health Care Power of Attorney?**

A: It is a good idea to fill out both documents because they address different aspects of your medical care. A Living Will applies only when you are terminally ill and unable to communicate your healthcare wishes or are permanently unconscious. In both cases, if you have indicated that you do not want your dying to be artificially prolonged and two physicians determine that there is no reasonable hope of recovery, your wishes will be honored.

A Health Care Power of Attorney becomes effective even if you are only temporarily unconscious and medical decisions need to be made. For example, if you were to become temporarily unconscious due to an accident or surgery, the person you name in your Health Care Power of Attorney could make medical decisions on your behalf.

If you have both documents and become terminally ill and unable to communicate or become permanently unconscious, the Living Will would be followed since it identifies your wishes in these situations.

**Q: Can I draft a Living Will or Health Care Power of Attorney that says if I become critically ill, I want everything possible done to keep me alive?**

A: Yes, but you would need to speak with an attorney about drafting a document expressing those wishes rather than using the standard forms in this packet. You should also discuss your wishes with your personal physician.



**Q. If I name someone in my Health Care Power of Attorney to make decisions for me, how much authority does that person have?**

- A. The person you name as your attorney-in-fact has the authority to make decisions regarding aspects of your medical care if you become unable to express your wishes. For this reason, you should tell the person you name how you feel about life-sustaining treatment, being fed through feeding or fluid tubes, and other important issues.

Also it is important to remember that a Health Care Power of Attorney document is not the same as a Financial Power of Attorney document, which you might use to give someone authority over your financial or business affairs.

**Q. If my condition becomes hopeless, can I specify that I want my feeding and fluid tubes removed?**

- A. Special instructions are needed to allow for the removal of feeding or fluid tubes if you become permanently unconscious and if the feeding and fluid tubes aren't needed to provide you with comfort. If you want to make certain that the tubes are removed should you become permanently unconscious, you need to place your initials on the space provided on the Living Will or Health Care Power of Attorney form. If you don't want the tubes removed when you are permanently unconscious, don't initial the forms.

**Q. If I want to complete a Health Care Power of Attorney, do I also have to nominate a Guardian of my Person and Estate?**

- A. In 2014, the Ohio Health Care Power of Attorney was expanded to allow you to nominate a guardian to your person and a guardian to your estate. In Ohio, guardianship is typically pursued when a person becomes incompetent, such as with advanced dementia, and there is no family member or significant other willing to undertake the responsibility to

advocate for that person. In some cases, guardianship may also be pursued if there is conflict between responsible family members. By nominating a guardian in the Health Care Power of Attorney, you would communicate your preferences to the probate court to consider your preferences, should a guardianship process ever begin. However, you are not required to complete this section if you do not wish to. If you prefer not to nominate a guardian, simply draw a large "X" over this section of the form.

**Q. Do I have to use the standard forms for a Living Will or Health Care Power of Attorney or can I draw up my own documents?**

- A. The enclosed forms were produced jointly by the Ohio State Bar Association, the Ohio State Medical Association, the Ohio Hospital Association, Ohio Osteopathic Association and the Midwest Care Alliance. They comply with the requirements of Ohio law, but you do not have to use these forms. You may wish to consult an attorney for assistance in drafting a document or you may draft your own. In either case, the documents must comply with the specific language spelled out in the Ohio Revised Code.

**Q. Can I use Advance Directive or DNR orders from states for healthcare decisions in Ohio?**

- A. Advance directives and health care decision forms vary from state to state. For example, some states may recognize Five Wishes ([www.Fivewishes.org](http://www.Fivewishes.org)) or a POLST form (Physician's Orders for Life-Sustaining Treatment/[www.polst.org](http://www.polst.org)). Under Ohio law, health care providers should attempt to honor any advance directive presented to them. However, it is strongly recommended that if you spend any regular amount of time in Ohio, that you complete Ohio's advance directives in accordance with Ohio law.





# Ohio's Health Care Power of Attorney

## What you should know about a Health Care Power of Attorney:

A **Health Care Power of Attorney** is a document that allows you to name a person to act on your behalf to make health care decisions for you if you become unable to make them for yourself. **This person becomes an attorney-in-fact for you.**

The Health Care Power of Attorney also allows you to nominate a guardian to your person and a guardian of your estate. Nomination does not guarantee that this individual will be appointed to be your guardian. Instead, it provides an opportunity for individuals to express their preferences for guardianship which can be taken into account should the issue ever be brought to probate court.

If you have a **Health Care Power of Attorney** and a **Living Will**, health care workers must follow the wishes you state in your **Living Will**, once the **Living Will** becomes effective. In other words, your **Living Will** takes precedence over your **Health Care Power of Attorney**.

You can change your mind and revoke your **Health Care Power of Attorney** at any time. You can do this simply by telling your attorney-in-fact, your physician and your family that you have changed your mind and wish to revoke your **Health Care Power of Attorney**. In this case, it is a good idea to ask for a copy of the document back from anyone to whom you may have given it.

A Healthcare Power of Attorney is different from a Financial Power of Attorney that you use to give someone authority over your financial matters.

The person you appoint as your **attorney-in-fact**, by completing the **Health Care Power of Attorney** form, has the power to authorize and refuse medical treatment for you. **This authority is recognized in all medical situations when you are unable to express your own wishes.** Unlike a **Living Will**, it is not limited to situations in which you are terminally ill or permanently unconscious. For example, your physician or the hospital may consult with your attorney-in-fact should you be injured in a car accident and become temporarily unconscious. You may also choose to allow protected health care information to be shared with your attorney-in-fact immediately, by initialing the appropriate box in the document.



There are **five limitations** on the authority of your attorney-in-fact:

1. **An attorney-in-fact has limited authority to order that life-sustaining treatment be withdrawn from you.** Your attorney-in-fact may order that life-sustaining treatment be refused or withdrawn only if you have a terminal condition or if you are in a permanently unconscious state. And even then, the attending physician and, if applicable, the consulting physician, must confirm that diagnosis, and your attending physician(s) must determine that you have no reasonable possibility of regaining decision-making ability.
2. **Your attorney-in-fact does not have the authority to order the withdrawal of “comfort care.”** Comfort care is any type of medical or nursing care that would provide you with comfort or relief from pain.
3. **If you are pregnant, your attorney-in-fact cannot order the withdrawal of life-sustaining treatment unless certain conditions are met.** Life-sustaining treatment cannot be withdrawn if doing so would terminate the pregnancy unless there is substantial risk to your life or two physicians determine that the fetus would not be born alive.
4. **Your attorney-in-fact may order that nutrition and hydration be withdrawn only if you are in a terminal condition or permanently unconscious state and two physicians agree that nutrition and hydration will no longer provide comfort or alleviate pain.** If you want to give your attorney-in-fact the authority to withhold nutrition and hydration if you were to become permanently unconscious, you must indicate this in the appropriate section of the **Health Care Power of Attorney** form. If you also have a **Living Will**, it should be consistent with your **Health Care Power of Attorney** regarding the withholding of nutrition and hydration. In other words, if you indicate in your **Health Care Power of Attorney** that it is permissible for your attorney-in-fact to order that nutrition and hydration be withheld, then you also should indicate in your **Living Will** that it is permissible for your physician to withhold nutrition and hydration.
5. **If you previously have given consent for treatment (before becoming unable to communicate), your attorney-in-fact cannot withdraw your consent unless certain conditions are met.** Either your physical condition must have changed and/or the treatment you approved is no longer of benefit or the treatment has not been proven effective.



## How to fill out the Health Care Power of Attorney form:

You should use this form to appoint someone to make health care decisions for you if you should become unable to make them for yourself.

NOTE: The section titled NOTICE TO ADULT EXECUTING THIS DOCUMENT is required by law to be part of the document and must accompany it and any copies distributed.

1. Read over all information carefully. You may reference the definitions found on pages one and two of the twelve-page State of Ohio Health Care Power of Attorney form located in this booklet for further clarification.
2. On the first two lines of the form, print your full name and birth date.
3. Under, "Naming of My Agent," fill in the name of the person you are appointing as your attorney-in-fact, the agent's current address and telephone number. Immediately following, you may initial the box if you wish for your agent to immediately have access to your protected health care information (PHI). If you choose not to initial this box, your agent will only have access to your protected health care information in the event that you are incapacitated and the Health Care Power of Attorney is activated.
4. In the middle of the third page, you may name alternate agents on the indicated spaces; if you choose not to name alternate agents, you should cross out the unused lines. You may not name your attending physician or the administrator of any nursing home where you are receiving care as your attorney-in-fact.
5. On page five of the Health Care Power of Attorney form, written in bold face type under ***Special Instructions***, is the statement that will give your physician permission to withhold food and water in the event you are permanently unconscious. If you want to give your physician permission to withhold food and water in this situation, then you must place your initials in the box indicated.
6. On page five at the bottom, the form provides a section where you may write additional instructions and impose additional limitations that you may consider appropriate to document. You may attach additional pages if needed. You should include all attached pages with any copy(ies) you make and you should note the attached pages on the form itself in the related area.
7. On page six, there is an explanation of the nomination of guardianship. If you wish to nominate the same individual whom you named as agent to also serve as your guardian of person, place your initials in the indicated box and cross out the unused lines. If you wish to nominate a different individual to serve as guardian of your person, write the name, address and relationship to you on the line indicated.



8. On page seven, you may nominate an individual to serve as guardian of your estate. If you wish to nominate the same individual whom you named as agent to also serve as your guardian of estate, place your initials in the indicated box and cross out the unused lines. If you wish to nominate a different individual to serve as guardian of your estate, write the name, address and relationship to you on the line indicated. Below, please indicate whether you would prefer the individual nominated to serve as guardian off your estate be bonded, or if you would prefer any bond be waived by placing your initials in the appropriate box.

9. Following the nomination of guardians is a section where you indicate whether or not you have a **Living Will**.

10. On page eight, there are spaces to date and sign the form. Remember, the **Health Care Power of Attorney** is not considered valid or effective unless you do one of the following:

**First Option (Page 9)** – Date and sign the **Health Care Power of Attorney** in the presence of two witnesses, who also must sign and include their addresses and indicate the date of their signatures.

OR

**Second Option (Page 9)** – Date and sign the **Health Care Power of Attorney** in the presence of a notary public and have the **Health Care Power of Attorney** notarized on the appropriate space provided on the form.

The following people may **not** serve as a witness to your **Health Care Power of Attorney**:

- *Primary agent;*
- *Guardian of your Person or Estate;*
- *Alternate or successor agent or guardian;*
- *Anyone related to you by blood, marriage, or adoption (your spouse and children);*
- *Your attending physician;*
- *The administrator of nursing home where you are receiving care.*





# Ohio's Guardianship

## DEFINITIONS

**Principal:** (also known as Declarant) is the Competent Adult who completes any advance directive like a Power of Attorney, a Health Care Power of Attorney, Living Will or other document.

**Agent:** (also known as an Attorney in fact) is the person that the Principal names in the advance directive.

**Guardian:** is the person that the Probate Court names to act for the Superior Guardian which is the court. The person serves at the direction of the Probate Court and is answerable to that Court.

## NAMING VS NOMINATING

There are many differences between a Principal **naming** an Agent to act for him/her if necessary and a Principal **nominating** an individual to be his/her guardian.

**Naming** an Agent through an advance directive, such as a Power of Attorney, Health Care Power of Attorney or a Living Will, is completed by a Principal who is a COMPETENT ADULT. Completing this naming occurs before the need arises for the Agent to act and is done solely at the discretion and desire of the Principal. The Agent usually takes over decision making when the Principal becomes incapable of making decisions.

**Nominating** a person to become the guardian of the person, the estate or both is also completed by a Principal who is a competent adult. This occurs through an advance directive before the need arises for a guardian. However, nominating a person to become guardian if one is needed does not *automatically* mean the nominated person will become the guardian.

The actual **naming** of a guardian of the person, the estate or both is done solely by a Probate Court in Ohio after the Principal becomes incompetent. **Nominating** a person to become the guardian in any advance Directive is the means by which the Principal communicates to the Probate Court whom the Principal wishes to be appointment by the Court as guardian. Nominating a person to become the guardian does not insure that the Court will name that person. There are numerous factors which the court must examine in making its decision and it is totally up to the court who it names as guardian.

To begin the process of seeking a guardianship, the nominated person must first make a written application to the Court to become the guardian. The Court will make three (3) decisions:

1. Is the Principal legally incompetent;
2. Is it necessary that a guardianship be established in place of any other written document such as a Health Care Power of Attorney; and
3. Is the applicant a suitable and competent person whom the court desired to name as guardian?



## **FREQUENTLY ASKED QUESTIONS**

### **Q: What is the difference between an Agent and a guardian?**

**A:** An agent is named by the competent Principal and has no oversight by any other person or agency once the Principal becomes incapable of making decisions. A guardian is named by the Probate Court after it determines that the principal is incompetent and the Court provides oversight as the Court is the superior guardian.

### **Q: I have always heard that if I name someone to be my Agent, there will not ever be a need for a guardianship to be established through the court.**

**A:** One of the reasons to name an Agent in an Advance Directive is the desire to avoid guardianship. However, any number of reasons could arise which force the need for a guardianship. One example: the Principal becomes incompetent, thus precluding naming someone other than the person acting as Agent. A friend of the Principal finds out that the Agent is taking advantage of the Principal. The only way to obtain a different person to act for the incompetent Principal is to apply for guardianship through the Court so that the court can provide oversight.

### **Q: Are there different kinds of guardianships?**

**A:** Depending on the needs of the Principal, there may be the necessity to name a guardian of the person, the estate, or both. A guardian of the person makes decisions concerning such items as where to live, health care, end of life, and so forth. A guardian of the estate makes decisions on how to spend the principal's money within the directions from the Court. If you are unsure what type of guardianship is necessary, you are advised to obtain legal advice.

### **Q: What if different people are nominated to be the guardian in different documents?**

**A:** The principal may choose to nominate different people to be guardian of the estate and guardian of the person. The preference of the Court is to name one person to act as guardian of both but there can be solid reasons for different people to act in different capacities. On the other hand, if the nominating of a guardian is inadvertent and two people are nominated in the same capacity, both will have to make an application to the Court, and the Court will decide which of the two to choose. The Court may also choose a third applicant, not even named by the principal. It is solely within the discretion of the Court. This is why it is critical to make sure that all of your advance directives, such as a General Durable Power of Attorney, a Healthcare Power of Attorney, a Living Will, and any other written document which names someone to serve in the future, are coordinated and done with full planning. Because of the critical need to coordinate nominations of agents and guardians, it is advisable to work with an attorney for this consistency.

### **Q: What if the Court names a different guardian that the Principal selected as an Agent through one of the written advance directives?**

**A:** During the process of the court's naming a guardian, all written advance directive documents must be given to the court to examine. At the time of the hearing, the Court will determine what the powers of the guardian are and what if any decisions will belong to the Agent. If there is ever a disagreement between the guardian and the Agent, the Court, as the superior guardian, will determine the decision to be made. If there is a conflict at any time during the application process, it is advisable to seek legal counsel.

### **Q: What happens if I name an agent or nominate a person I desire to be my guardian and then change my mind?**

**A:** A Principal can change his/her mind whom to name as the agent or guardian at any time as long as the adult is competent. The Principal may revoke any document and rename/re-nominate different people as long as the Principal is competent. Once the Principal becomes incapable of making decisions about his/her person or estate, that person cannot change any advance directive.

### **Q: Are there minimum or maximums required for a guardianship of the Estate?**

**A:** This is a complex issue that should be discussed with legal counsel.





# State of Ohio

## Health Care Power of Attorney

[R.C. §1337]

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(Print Full Name)

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(Birth Date)

This is my Health Care Power of Attorney. I revoke all prior Health Care Powers of Attorney signed by me. I understand the nature and purpose of this document. If any provision is found to be invalid or unenforceable, it will not affect the rest of this document.

I understand that my agent can make health care decisions for me only whenever my attending physician has determined that I have lost the capacity to make informed health care decisions. However, this does not require or imply that a court must declare me incompetent.

### Definitions

**Adult** means a person who is 18 years of age or older.

**Agent or attorney-in-fact** means a competent adult who a person (the “principal”) can name in a Health Care Power of Attorney to make health care decisions for the principal.

**Artificially or technologically supplied nutrition or hydration** means food and fluids provided through intravenous or tube feedings. *[You can refuse or discontinue a feeding tube or authorize your Health Care Power of Attorney agent to refuse or discontinue artificial nutrition or hydration.]*

**Bond** means an insurance policy issued to protect the ward’s assets from theft or loss caused by the Guardian of the Estate’s failure to properly perform his or her duties.

**Comfort care** means any measure, medical or nursing procedure, treatment or intervention, including nutrition and/or hydration, that is taken to diminish a patient’s pain or discomfort, but not to postpone death.

**CPR** means cardiopulmonary resuscitation, one of several ways to start a person’s breathing or heartbeat once either has stopped. It does not include clearing a person’s airway for a reason other than resuscitation.

**Do Not Resuscitate or DNR Order** means a physician’s medical order that is written into a patient’s record to indicate that the patient should not receive cardiopulmonary resuscitation.



**Guardian** means the person appointed by a court through a legal procedure to make decisions for a ward. A **Guardianship** is established by such court appointment.

**Health care** means any care, treatment, service or procedure to maintain, diagnose or treat an individual's physical or mental health.

**Health care decision** means giving informed consent, refusing to give informed consent, or withdrawing informed consent to health care.

**Health Care Power of Attorney** means a legal document that lets the principal authorize an agent to make health care decisions for the principal in most health care situations when the principal can no longer make such decisions. Also, the principal can authorize the agent to gather protected health information for and on behalf of the principal immediately or at any other time. A Health Care Power of Attorney is NOT a financial power of attorney.

The Health Care Power of Attorney document also can be used to nominate person(s) to act as guardian of the principal's person or estate. Even if a court appoints a guardian for the principal, the Health Care Power of Attorney remains in effect unless the court rules otherwise.

**Life-sustaining treatment** means any medical procedure, treatment, intervention or other measure that, when administered to a patient, mainly prolongs the process of dying.

**Living Will Declaration** means a legal document that lets a competent adult ("declarant") specify what health care the declarant wants or does not want when he or she becomes terminally ill or permanently unconscious and can no longer make his or her wishes known. It is NOT and does not replace a will, which is used to appoint an executor to manage a person's estate after death.

**Permanently unconscious state** means an irreversible condition in which the patient is permanently unaware of himself or herself and surroundings. At least two physicians must examine the patient and agree that the patient has totally lost higher brain function and is unable to suffer or feel pain.

**Principal** means a competent adult who signs a Health Care Power of Attorney.

**Terminal condition** means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a principal's attending physician and one other physician who has examined the principal, both of the following apply: (1) there can be no recovery and (2) death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

**Ward** means the person the court has determined to be incompetent. The ward's person, financial estate, or both, is protected by a guardian the court appoints and oversees.

**Naming of My Agent.** The person named below is my agent who will make health care decisions for me as authorized in this document.

Agent's name and relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number(s): \_\_\_\_\_

**By placing my initials, signature, check or other mark in this box, I specifically authorize my agent to obtain my protected health care information immediately and at any future time.**

**Guidance to Agent.** My agent will make health care decisions for me based on my instructions in this document and my wishes otherwise known to my agent. If my agent believes that my wishes conflict with what is in this document, this document will take precedence. If there are no instructions and if my wishes are unclear or unknown for any particular situation, my agent will determine my best interests after considering the benefits, the burdens and the risks that might result from a given decision. If no agent is available, this document will guide decisions about my health care.

**Naming of alternate agent(s).** If my agent named above is not immediately available or is unwilling or unable to make decisions for me, then I name, in the following order of priority, the persons listed below as my alternate agents *[cross out any unused lines]*:

X out area if not used	First alternate agent's name and relationship: _____
	Address: _____
	Telephone number(s): _____
	Second alternate agent's name and relationship: _____
	Address: _____
	Telephone number(s): _____

Any person can rely on a statement by any alternate agent named above that he or she is properly acting under this document and such person does not have to make any further investigation or inquiry.

**Authority of Agent.** Except for those items I have crossed out and subject to any choices I have made in this Health Care Power of Attorney, my agent has full and complete authority to make all health care decisions for me. This authority includes, but is not limited to, the following:

1. To consent to the administration of pain-relieving drugs or treatment or procedures (including surgery) that my agent, upon medical advice, believes may provide comfort to me, even though such drugs, treatment or procedures may hasten my death.
2. If I am in a terminal condition and I do not have a Living Will Declaration that addresses treatment for such condition, to make decisions regarding life-sustaining treatment, including artificially or technologically supplied nutrition or hydration.
3. To give, withdraw or refuse to give informed consent to any health care procedure, treatment, interventions or other measure.
4. To request, review and receive any information, verbal or written, regarding my physical or mental condition, including, but not limited to, all my medical and health care records.
5. To consent to further disclosure of information and to disclose medical and related information concerning my condition and treatment to other persons.
6. To execute for me any releases or other documents that may be required in order to obtain medical and related information.
7. To execute consents, waivers and releases of liability for me and for my estate to all persons who comply with my agent's instructions and decisions. To indemnify and hold harmless, at my expense, any person who acts while relying on this Health Care Power of Attorney. I will be bound by such indemnity entered into by my agent.
8. To select, employ and discharge health care personnel and services providing home health care and the like.
9. To select, contract for my admission to, transfer me to or authorize my discharge from any medical or health care facility, including, but not limited to, hospitals, nursing homes, assisted living facilities, hospices, adult homes and the like.
10. To transport me or arrange for my transportation to a place where this Health Care Power of Attorney is honored, if I am in a place where the terms of this document are not enforced.
11. To complete and sign for me the following:
  - Consents to health care treatment, or to the issuing of Do Not Resuscitate (DNR) Orders or other similar orders; and
  - Requests to be transferred to another facility, to be discharged against health care advice, or other similar requests; and
  - Any other document desirable or necessary to implement health care decisions that my agent is authorized to make pursuant to this document.

**Special Instructions.** *[These instructions apply only if I DO NOT have an active Living Will Declaration.]*

By placing my initials, signature, check or other mark in this box, I specifically authorize my agent to refuse or, if treatment has started, to withdraw consent to, the provision of artificially or technologically supplied nutrition or hydration if I am in a permanently unconscious state AND my physician and at least one other physician who has examined me have determined, to a reasonable degree of medical certainty, that artificially or technologically supplied nutrition and hydration will not provide comfort to me or relieve my pain.

[R.C. §1337.13(E)(2)(a) and (b)]

**Limitations of Agent’s Authority.** I understand there are limitations to the authority of my agent under Ohio law:

1. My agent does not have authority to refuse or withdraw informed consent to health care necessary to provide comfort care.
2. My agent does not have the authority to refuse or withdraw informed consent to health care if I am pregnant, if the refusal or withdrawal of the health care would terminate the pregnancy, unless the pregnancy or the health care would pose a substantial risk to my life, or unless my attending physician and at least one other physician to a reasonable degree of medical certainty determines that the fetus would not be born alive.
3. My agent cannot order the withdrawal of life-sustaining treatment, including artificially or technologically supplied nutrition or hydration, unless I am in a terminal condition or in a permanently unconscious state and two physicians have determined that life-sustaining treatment would not or would no longer provide comfort to me or alleviate my pain.
4. If I previously consented to any health care, my agent cannot withdraw that treatment unless my condition has significantly changed so that the health care is significantly less beneficial to me, or unless the health care is not achieving the purpose for which I chose the health care.

**Additional Instructions or Limitations.** I may give additional instructions or impose additional limitations on the authority of my agent. Below are my specific instructions or limitations:

*[If the space below is not sufficient, you may attach additional pages. If you do not have any additional instructions or limitations, write “None” below.]*

**NOMINATION OF GUARDIAN**

[R.C. §1337.28 (A) and R.C. §2111.121]

*[You may, but are not required to, use this document to nominate a guardian, should guardianship proceedings be started, for your person or your estate.]*

I understand that any person I nominate is not required to accept the duties of guardianship, and that the probate court maintains jurisdiction over any guardianship. [R.C. §2111.121(C)]

I understand that the court will honor my nominations except for good cause shown or disqualification. [R.C. §2111.121(B)]

I understand that, if a **guardian of the person** is appointed for me, such guardian’s duties would include making day-to-day decisions of a personal nature on my behalf, such as food, clothing, and living arrangements, but this or any subsequent Health Care Power of Attorney would remain in effect and control health care decisions for me, unless determined otherwise by the court. The court will determine limits, suspend or terminate this or any subsequent Health Care Power of Attorney, if they find that the limitation, suspension or termination is in my best interests. [R.C. §1337.28 (C)]

**I intend that the authority given to my agent in my Health Care Power of Attorney will eliminate the need for any court to appoint a guardian of my person.** However, should such proceedings start, I nominate the person(s) below in the order listed as **guardian of my person**.

By writing my initials, signature, a check mark or other mark in this box, I nominate my agent and alternate agent(s), if any, to be **guardian of my person**, in the order named above.

If I do not choose my agent or an alternate agent to be the **guardian of my person**, I choose the following person(s), in this order *[cross out any unused lines]*:

X out area if not used

Guardian of my person’s name and relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number(s): \_\_\_\_\_

Alternate guardian of my person’s name and relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number(s): \_\_\_\_\_

**Guardian of the estate** means the person appointed by a court to make financial decisions on behalf of the ward, with the court's involvement. The guardian of the estate is required to be bonded, unless bond is waived in writing or the court finds it unnecessary.

By placing my initials, signature, check or other mark in this box, I nominate my agent or alternate agent(s), if any, as **guardian of my estate**, in the order named above.

If I do not choose my agent or an alternate agent to be the **guardian of my estate**, I choose the following person(s), in this order *[cross out any unused lines]*:

X out area if not used

Guardian of my estate and relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number(s): \_\_\_\_\_

Alternate guardian of my estate and relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number(s): \_\_\_\_\_

By placing my initials, signature, check or other mark in this box, I direct that bond be waived for guardian or successor **guardian of my estate**. [R.C. §1337.28 (B)]

If I do **not** make any mark in this box, it means that I expect the guardian or successor guardian of my estate to be bonded. [R.C. §1337.28 (B)]

**No Expiration Date.** This Health Care Power of Attorney will have no expiration date and will not be affected by my disability or by the passage of time.

**Enforcement by Agent.** My agent may take for me, at my expense, any action my agent considers advisable to enforce my wishes under this document.

**Release of Agent's Personal Liability.** My agent will not be liable to me or any other person for any breach of duty unless such breach of duty was committed dishonestly, with an improper motive, or with reckless indifference to the purposes of this document or my best interests. [R.C. §1337.35]

**Copies are the Same as Original.** Any person may rely on a copy of this document. [R.C. §1337.26(D)]

**Out of State Application.** I intend that this document be honored in any jurisdiction to the extent allowed by law. [R.C. §1337.26(C)]

I have completed a **Living Will**:

Yes \_\_\_\_\_ No \_\_\_\_\_

**SIGNATURE of PRINCIPAL**

I understand that I am responsible for telling members of my family and my physician, my lawyer, my religious advisor and others about this Health Care Power of Attorney. I understand I may give copies of this Health Care Power of Attorney to any person.

I understand that I may file a copy of this Health Care Power of Attorney with the probate court for safekeeping. [R.C. §1337.12(E)(3)]

I understand that I must sign this Health Care Power of Attorney and state the date of my signing, and that my signing either must be witnessed by two adults who are eligible to witness my signing OR the signing must be acknowledged before a notary public. [R.C. §1337.12]

I sign my name to this Health Care Power of Attorney

on \_\_\_\_\_, at \_\_\_\_\_, Ohio.

\_\_\_\_\_  
Principal

**[Choose Witnesses OR a Notary Acknowledgment.]**

**WITNESSES [R.C. §1337.12(B)]**

*[The following persons CANNOT serve as a witness to this Health Care Power of Attorney:*

- *Your agent, if any;*
- *The guardian of your person or estate, if any;*
- *Any alternate or successor agent or guardian, if any;*
- *Anyone related to you by blood, marriage, or adoption (for example, your spouse and children);*
- *Your attending physician; and*
- *The administrator of any nursing home where you are receiving care.]*



***I attest that the principal signed or acknowledged this Health Care Power of Attorney in my presence, and that the principal appears to be of sound mind and not under or subject to duress, fraud or undue influence.***

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Witness One's Signature                      Witness One's Printed Name                      Date

\_\_\_\_\_  
Witness One's Address

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Witness Two's Signature                      Witness Two's Printed Name                      Date

\_\_\_\_\_  
Witness Two's Address

**OR, if there are no witnesses:**

**NOTARY ACKNOWLEDGMENT [R.C. §1337.12]**

State of Ohio

County of \_\_\_\_\_ ss.

On \_\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, principal of the above Health Care Power of Attorney, and who has acknowledged that (s)he executed the same for the purposes expressed therein. I attest that the principal appears to be of sound mind and not under or subject to duress, fraud or undue influence.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

My Commission is Permanent: \_\_\_\_\_

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### NOTICE TO ADULT EXECUTING THIS DOCUMENT

This is an important legal document. Before executing this document, you should know these facts:

This document gives the person you designate (the attorney in fact) the power to make MOST health care decisions for you if you lose the capacity to make informed health care decisions for yourself. This power is effective only when your attending physician determines that you have lost the capacity to make informed health care decisions for yourself and, notwithstanding this document, as long as you have the capacity to make informed health care decisions for yourself, you retain the right to make all medical and other health care decisions for yourself.

You may include specific limitations in this document on the authority of the attorney in fact to make health care decisions for you.

Subject to any specific limitations you include in this document, if your attending physician determines that you have lost the capacity to make an informed decision on a health care matter, the attorney in fact GENERALLY will be authorized by this document to make health care decisions for you to the same extent as you could make those decisions yourself, if you had the capacity to do so. The authority of the attorney in fact to make health care decisions for you GENERALLY will include the authority to give informed consent, to refuse to give informed consent, or to withdraw informed consent to any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition.

HOWEVER, even if the attorney in fact has general authority to make health care decisions for you under this document, the attorney in fact NEVER will be authorized to do any of the following:

(1) Refuse or withdraw informed consent to life-sustaining treatment, unless your attending physician and one other physician who examines you determine, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, that either of the following applies:

(a) You are suffering from an irreversible, incurable and untreatable condition caused by disease, illness, or injury from which

(i) there can be no recovery and

(ii) your death is likely to occur within a relatively short time if life-sustaining treatment is not administered, and your attending physician additionally determines, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, that there is no reasonable possibility that you will regain the capacity to make informed health care decisions for yourself.

(b) You are in a state of permanent unconsciousness that is characterized by you being irreversibly unaware of yourself and your environment and by a total loss of cerebral cortical functioning, resulting in you having no capacity to experience pain or suffering, and your attending physician additionally determines, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, that there is no reasonable possibility that you will regain the capacity to make informed health care decisions for yourself;

(2) Refuse or withdraw informed consent to health care necessary to provide you with comfort care (except that, if the attorney in fact is not prohibited from doing so under (4) below, the attorney in fact could refuse or withdraw informed consent to the provision of nutrition or hydration to you as described under (4) below). **(You should understand that comfort care is defined in Ohio law to mean artificially or technologically administered sustenance (nutrition) or fluids (hydration) when administered to diminish your pain or discomfort, not to postpone your death, and any other**

Notice as required by Ohio Revised Code §1337.17