

Fact Sheet

Durable Power of Attorney for Health Care

A Durable Power of Attorney for Health Care (DPAHC) gives the person, or persons, you designate as your agent(s) the power to make health care decisions for you in the event you are unable to do so. The person (agent) you designate must act consistently with your wishes as stated in your DPAHC. This notarized document gives your agent the power to access your medical records, to give consent for providing specific treatment or not providing specific treatment, and to give consent for stopping treatment necessary to keep you alive.

Whether or not you have a DPAHC, you have the right to make medical and other health care decisions for yourself, so long as you are able to give informed consent with respect to a particular decision. In addition, no treatment may be given to you over your objection at the time, and health care necessary to keep you alive may not be stopped or withheld if you object at the time.

For people over age 18 with hydrocephalus, a DPAHC is a critical tool. Remember: if you are over 18, you are legally considered an adult. Thus, members of your family - including your parents and your spouse - have no legal right to your medical records and no legal right to make health care decisions for you should you become ill. A DPAHC can help you manage this reality, strengthening your ability to live independently and ensuring the continuation of appropriate medical care.

Consider the following scenario: You end up in the emergency room of a strange hospital with a possible shunt malfunction. A friend calls your dad, who lives in another state. Your dad gets on the phone to the hospital, asking for information about your status, and bingo - sorry, the patient (you) is an adult, and the hospital can't release any information about you, even to your father. Even worse, your dad does not have access to your medical records, and your primary caregiver or neurosurgeon can't legally release this vital information to him. It turns out that shunt replacement is indeed necessary - this is a medical emergency - and your dad is not legally allowed to make medical decisions for you. Surgery is thus performed by a neurosurgeon you've never met, who perhaps has only limited experience with shunts.

This situation can be avoided with a DPAHC. Once your DPAHC has been completed and notarized, give copies of it to (1) those who are personally closest to you (parents, spouse, relatives, roommate, close friend, etc.); and (2) all of your doctors, asking that it be placed in your medical records. Also carry a copy with you in your wallet. In the event of an emergency, the individual(s) you have designated as your agent(s) will have access to your medical records and the power to make medical decisions for you, consistent with your wishes. In the example cited above, your dad (designated as your agent in your DPAHC), fully aware of your wishes, may consult with the emergency room team and then authorize that you be moved for surgery to a different hospital where the doctors are more experienced in shunting techniques.

The attached sample DPAHC is valid in the state of California, but each state has its own specific requirements for this document. There are several ways to find out about your state's requirements:

- Ask your primary care physician or neurosurgeon if he or she has a list of your state's requirements and a sample DPAHC form that you can copy.

- Contact your state's Medical Association (or Society), usually listed in the White Pages as (Name of State) Medical Association (Society). Ask for the state guidelines and a sample DPAHC. There may be a small charge for this.
- If you have access to the computer program Quicken, look under "Family Lawyer" for a list detailing the guidelines for a DPAHC in each state.

Creating a Durable Power of Attorney for Health Care is a smart, sensible move for anyone with a chronic medical condition that may require emergency intervention. It helps to ensure that:

1. Your wishes will be carried out should you be unable to make medical decisions for yourself.
2. You will have access to the best possible treatment in an emergency situation.
3. You and your family will enjoy peace of mind, making independent living a more safe and comfortable reality.

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For additional resources about hydrocephalus and information about the services of the Hydrocephalus Association, please contact:



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Sample: State of California

Durable Power of Attorney for Health Care

By this document, I intent to create a durable power of attorney by appointing the person designated below to make health care decisions for me as allowed by Section 2410 to 2443, inclusive, of the California Civil Code. This power of attorney shall not be affected by my subsequent incapacity. Health care decision means any consent, refusal of consent, or withdrawal of consent to health care.

I, _____, residing at _____, _____, hereby designate and appoint _____, residing at _____, telephone _____, as my attorney in fact to make health care decisions for me as authorized in this document. If for any reason (person designated above) _____ shall fail to qualify or cease to act as my attorney, I appoint _____, residing at _____, telephone _____, as my attorney in fact to make health care decisions for me as authorized in this document. In the event (2nd person designated above) <LINE> is not available then I appoint _____, residing at _____, telephone _____, as my attorney in fact to make health care decisions for me as authorized in this document.

If I become incapable of giving informed consent to health care decision, I hereby grant to my agent full power and authority to make health care decisions for me including the right to consent, refuse consent, or withdraw consent to any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition, and to receive and to consent to the release of medical information regarding my physical or mental condition, including, but not limited to, medical and hospital records.

My agent has the power and authority to execute on my behalf documents entitled or purporting to be "Refusal to Permit Treatment," "Leaving Hospital against Medical Advice," as well as any necessary waiver or release from liability required by a hospital or physician.

I sign my name to this durable power of attorney for health care on _____ (date) at _____ (location).

(Signature)

(Type name)

Notary Seal