



UNBEFRIENDED ELDERS: MATCHING VALUES WITH DECISIONS

FREQUENTLY ASKED QUESTIONS ABOUT BEING A HEALTH CARE AGENT in MINNESOTA

What is a Health Care Directive? A Health Care Directive (HCD) is a written document signed and dated by a person with capacity to do so (called the *principal*), but which goes into effect later, if the principal becomes unable to make or communicate medical decisions. The HCD form must be either notarized or witnessed by two people to be legal.

In the document, the principal may appoint a person (called an *agent*) to make medical decisions in the event they are unable to make their own decisions. Or, the document may describe the principal's medical treatment preferences and values. Also, the HCD can both name an agent(s) and describe medical treatment preferences.

What happens after I am appointed as health care agent? You should receive and keep a copy of the HCD; make some copies to share with medical professionals in the future. Under Minnesota law, a copy is as effective as the original document. If it has not already been done by the principal, you can make sure a copy of the HCD is on file with the principal's doctor, clinic, and hospital. If the principal lives in a nursing home, assisted living, apartment building, or receives home care, you should make sure the administrator, housing manager, or primary home care agency staff has your contact information for future use.

If possible, you would become involved right now by discussing the principal's values and wishes regarding medical care, and learning about the principal's existing health conditions and possible future health care wishes and needs. You will then be more ready to make decisions for the principal if a need arises in the future.

Or, you can wait until you are called upon in the future to become involved in making a medical decision for the principal. This may include consenting or refusing consent for a treatment or procedure. Your decisions should be appropriate to the situation and consistent with any of previously stated wishes made by the principal (wishes made through conversations with you or others, including the doctor, or as written in the HCD document).

How much time is involved to be a health care agent? This varies, depending on how involved you choose to become. Also, it depends on how complicated the decisions are. In some cases, it may be a one-time decision, such as whether to consent to surgery. In other cases it could be more time-consuming, such as making a series of decisions as the principal declines in health.

What are the powers granted to me as a health care agent? This will depend on what the principal wrote in the HCD, so you should refer to the document. The HCD does not give any financial powers. Unless limited by the principal, the document automatically gives the following powers: to make all health care decisions, including those pertaining to keeping the person alive; to choose health care providers; to choose where the principal will live and receive health care; to review and obtain medical records and release records to others.

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Optional powers the principal may also grant to the agent include: decisions about organ donation; disposition of the principal's body after death; making health care decisions even if the principal is still able to do so; decisions regarding mental health treatment including electroconvulsive therapy (ECT) or antipsychotic medications.

What is my liability as health care agent? As long as you make decisions in "good faith" you are not subject to criminal prosecution or civil liability. In other words, you do not have liability for your decisions, but your decisions must be in line with reasonable medical practice, what the principal would want, if you know this, or what is in the best interest of the principal.

What is my responsibility as a health care agent? Your responsibility is to be available to make a medical decision when the need for a decision arises because the principal is not able to make or communicate the decision.

What if I agree to serve as agent now, but when I am called upon to act, I don't want to, or I don't have time? There is no requirement for you to act just because you are named as a health care agent. It is best that you not accept this responsibility now if you do not feel comfortable with this role. But if you do accept it now, and later change your mind, that is your right to do so. If you are uncertain about your availability in the future, the principal can also name an alternate agent in the HCD.

Do I have to live in MN? No. It is relatively easy to be involved in the principal's medical decision-making even from far away. Others may try to tell you that a health care agent should live in the same state, but information can be exchanged quite readily between the principal, agent, and medical professionals with the assistance of telephone, fax, email, or conference calls.

Will I be responsible for the principal's bills? No, there is not financial responsibility or liability for the health care agent. You may be asked to sign a nursing home admission agreement or contract in order for the principal's to be admitted to receive care; many attorneys advise not signing such documents, as these agreements may hold you personally and financially responsible. Again, as a Health Care Agent, you have no authority to sign financial agreements and no responsibility to pay for care costs. If you have questions about this, you should speak to an attorney prior to signing any such documents.

What resources are there to help me understand how to make medical decisions and to support me?

Please refer to the attached materials:

Guide for Health Care Proxies

Metropolitan Caregiver Service Collaborative Resources

Resources: Advance Planning for Health Care

For more information, contact

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