

Things to Know About Choosing A Health Care Agent

Information contributed by Attorney Eden D. Prendergast

1. Who should I choose as my Health Care Agent (Agent)?

- Any adult you trust - a spouse, family member, a friend – or someone who knows what’s important to you, can represent your choices and preferences and make medical decisions
- You cannot choose a person employed in a facility where you are a patient or resident or have applied for admission, unless they are related by blood, marriage or adoption
- You are able to change your Agent at any time, so long as you are still competent

2. What should I discuss with my Agent?

- You should discuss your personal wishes, values, and beliefs with your Agent as well as specific instructions for care, including your preferences for life-sustaining treatment
- Discuss your concerns about what could happen if you cannot make decisions yourself
- Use the *Personal Directive* as a guide for discussion
- Keep your Agent up to date and give your Agent a copy of your Health Care Proxy

3. What does an Agent do?

- Your Agent makes health care decisions on your behalf, if for instance, you are injured in a sudden accident, become ill, or need to undergo a surgery and cannot make effective health care decisions yourself
- Your Agent will speak with your doctors about the different care options, including the benefits and risks of those options, to determine what treatment you would have wanted
- If your Agent does not know exactly what treatment you would have wanted, your Agent will make a decision that is in your best interest

4. What decisions can my Agent make?

- You can give your Agent the authority to make all health care decisions that you would, or you can limit your Agent’s authority to make decisions in your Health Care Proxy form
- You can give your Agent specific instructions and information in your Personal Directive
- Your Agent can admit you to a nursing home, mental health facility or other medical facility unless you specially limit that authority in the Health Care Proxy

5. What decisions are ones my Agent cannot make?

- An Agent does not have the power to make financial decisions on your behalf – that is the responsibility of the person you appoint in your Durable Power of Attorney, called an Attorney-in-fact; you can choose the same person to be both your Agent and your Attorney-in-fact, but they are two separate roles and two different documents
- Your Agent, upon admission to a nursing home, does not have the authority to sign an arbitration agreement on your behalf, thereby waiving your right to a trial by jury

6. What if I regain the ability to make decisions for myself?

- Your Agent only has the power to make decisions for you when you are unable to do so; if you regain your ability, then you will be able to make your own medical decisions
- An Agent’s authority can be temporary – if you are in surgery or unconscious, an Agent will have authority until you are able to make and communicate your own decisions