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DURABLE POWER OF ATTORNEY FOR HEALTH CARE A SOCIAL WORK PERSPECTIVE

The durable power of attorney for health care (DPOAHC) document was created by the Wisconsin legislature back in 1991 (Chapter 155). It is an advance planning tool that allows adults who are 18 years old and of sound mind to designate another person to make health care decisions for them in the event they become incapacitated and can no longer do so themselves. It has been widely promoted by county and state agencies that provide long-term care services, the health care community, and the legal community.

The document was designed to be user-friendly and many adults have successfully completed it without the assistance of an attorney. The person creating the DPOAHC is called the principal. His/her signature must be witnessed by two, unrelated adults who have no claim to the principal's estate and are not health care providers serving the principal. The DPOAHC is "activated" when two physicians or one physician and one licensed psychologist personally examine the principal and sign a statement saying incapacity now exists. At this point the designated health care (HC) agent becomes the legal decision-maker for the principal. This planning tool also allows the principal to name both a primary and an alternate HC agent. Often spouses designate each other as primary HC agents in which case it's advisable to make the alternate an adult child or someone else who is younger than the principal. Once the document is completed and all the required signatures are secured, it's highly recommended to make copies for your primary doctor, for each of the named agents, a copy for yourself, and then keep the original with other important legal papers.

What's described above is the easy part of doing a DPOAHC. The more challenging part is deciding who to designate as your agent(s) and then talking to them about your health problems and the choices you would make for yourself as chronic conditions worsen. Such a discussion needs to cover specific scenarios that may occur as a result of your medical condition(s) and other quality of life issues that may be encountered as you approach the end of life. Some basic choices are covered when you create a DPOAHC, but many are NOT. This is why there's a "special provisions" section within this document. This is where you can spell things out for your agent(s); however, there is no substitute for actually communicating with them before your health declines and you become incapacitated.

Another consideration when choosing an agent is the person's character traits. HC agents need to be strong individuals with the ability to understand and then act upon medical information. Good communication skills are also important as well as the ability to negotiate the family dynamics that often arise during these stressful times. Some health care providers, especially those in acute care settings, become cautious and focused on liability issues if they sense a family is conflicted and can't come to consensus. That's why it's so important to choose someone with the skills and perseverance to carry out your wishes.

The effectiveness of Wisconsin's DPOAHC depends largely upon a family's willingness and ability to communicate with each other and health care providers, to negotiate differences of opinion, and to reach a decision acceptable to all as being reflective of the decision that the Principal would make if he or she were able.

** 30 **

Submitted by:
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