



ADVANCE HEALTH CARE DIRECTIVES  
AND  
DURABLE POWER OF ATTORNEY

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## OVERVIEW OF ADVANCE HEALTHCARE DIRECTIVES & POWERS OF ATTORNEY

Like most people, you probably are not very eager to spend time thinking about what would happen if you became unable to take care of yourself because of an accident or advanced age. If you don't do at least a little bit of planning now, naming someone you trust to direct your medical care and handle your financial matters could wind up in the hands of doctors or in front of courts who may not know very well about what you would prefer. It is far better to spend a few hours completing the legal documents that will make your wishes clear. Almost every adult can benefit from planning for incapacity.

### PLANNING FOR INCAPACITY

Most of us would like to make this plan for ourselves and our families if we become incapacitated, that is, if we can no longer take care of ourselves, personally or financially. This can be accomplished by:

- Stating the kinds of medical treatment you do not want if you are no longer able to speak for yourself.
- Naming someone to enforce those healthcare wishes and make the necessary medical decisions.
- Naming someone to take care of your financial matters for you if you can no longer manage them on your own.

### THE IMPORTANCE OF PLANNING AHEAD

Preparing an Advanced Directive for Healthcare and a Power of Attorney for finances is the best way and some of the easiest way to ensure that you will get the kind of care you want. If you don't prepare these documents, the healthcare you might receive treatment that is very different from what you would want, and, if you don't authorize someone to oversee your finances, a court could put those matters into the hands of someone you'd never choose for yourself.

It is especially important to plan ahead if your circumstances make it likely that family members won't understand your wishes or if a court might be inclined to appoint someone other than your first choice to make decisions for you. For example, planning is essential if you are a member of an armed couple and you want your partner to take responsibility for your healthcare someday you need help. Without the correct legal documents a family member to make financial decisions on your behalf. It is also important to make a plan if you feel strongly about any of the details of your medical care or



financial management. Only you know the particulars of your wishes, for example, that you never want to be placed on a respirator or that your house should be sold when you are alive even if you can no longer live there.

By stating your wishes in advance you may not take care of any discomforts you may have about your preferences, but most people will respect your wishes. A person wishing to challenge your documents will probably be unsuccessful and face a long battle in court unless he or she can show you were not of sound mind when you made your plan or that you signed documents under duress or as a result of fraud.

### **ADVANCED HEALTHCARE DIRECTIVE**

This is the official California form that permits you to state your wishes regarding healthcare and name a trusted person who will work with doctors and other healthcare providers on your behalf. If you like, you can also use this form to name the doctor you want to supervise your care if possible, to state your wishes about organ donation after your death and body disposition and other final arrangements you want to make.

### **HIPAA WAIVER / AUTHORIZATION TO RELEASE MEDICAL RECORDS**

Both state and federal law restrict the release of medical records in order to ensure the privacy of patients. In order for your agents to be able to access these restricted records, it is important to explicitly grant them this authorization by signing this form. The law encourages this document to be a distinct writing for the sole purpose of authorizing such release. This form is needed in addition to an Advance Healthcare Directive.

### **DO NOT RESUSCITATE ORDER**

Some people who do not want to receive life-sustaining treatment when close to death may also want to prepare a DNR or Do Not Resuscitate order. In a medical emergency, this form alerts emergency medical personnel that you do not wish to receive cardiopulmonary resuscitation (CPR).

### **DURABLE POWER OF ATTORNEY FOR FINANCES**

This official form allows you to appoint the person of your choice to manage your finances for you if you are ever unable to do so yourself. Granting a power of attorney while the agent is still able to make his or her own decisions is essential, because it could prevent the need for a costly and time-consuming conservatorship proceeding in the probate court. The person who signs the power of attorney is called the "principal" and the person appointed under the power of attorney is called the "agent". The agent must act in a "fiduciary" capacity for the principal and must serve the principal's interests when acting under the power of attorney. The form also allows the principal to state the agent's duties of loyalty and must only use the principal's resources for the benefit of the principal.

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