



GUIDELINES

For End of Life Decisions:
Patient, Physician, and Family



The Durable Power of Attorney
for Healthcare



Michigan Catholic Conference



*“LET ME GO
TO THE HOUSE
OF THE
FATHER.”*

The final words of Pope John Paul II

Dedicated to

Reverend Walter A. Markowicz, Ph.D., S.T.L.

*in gratitude for a lifetime of
service to medical-moral education*

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Guidelines for End of Life Decisions...

PATIENT, PHYSICIAN, AND FAMILY &
THE DURABLE POWER OF ATTORNEY FOR HEALTHCARE

*M*odern medical technology offers many possibilities for prolonging life. At the same time, it takes us down uncharted paths and raises ever-new questions. While medicine offers the possibility of extending one's life, it is often at the price of burdensome treatments, physical pain, and many psychological and spiritual anxieties.

Clearly, people of faith face a dilemma regarding such end of life decisions. On the one hand, we see the dying process as something sacred, a final act of worship, and an opportunity for healing of relationships. On the other hand, we wonder: What is *medically* ordinary and extraordinary? What is *morally* obligatory and optional? Who should make such decisions? How can we ensure that our own wishes for healthcare will be honored if we are unable to articulate them? How can we prepare a loved one to make healthcare decisions ahead of time so these matters can be handled with minimal family tension?

These questions cannot be answered easily in the abstract. Neither physicians nor clergy have ready-made solutions. Cases vary greatly but there are certain consistent principles Catholics should take into account when making end of life decisions. In this booklet, we will outline these principles and suggest the use of Durable Power of Attorney for Healthcare (DPOA) decisions.





Implementing Michigan Law

ADVANCE MEDICAL DIRECTIVES

Advance medical directives ensure that your intentions for healthcare are adhered to in case you are unable to participate in medical treatment decisions yourself. Advance medical directives fall into two categories: living wills and Durable Power of Attorney for Healthcare. The only form of advance medical directive that is recognized by state law in Michigan is a Durable Power of Attorney for Healthcare. State law does not recognize living wills. In December of 1990, by Public Act 312, the state of Michigan allowed for DPOA decisions. According to this law, you may choose a proxy decision-maker who is knowledgeable about your intentions and who can make healthcare choices for you in the event you are incapacitated.

DOCUMENTS INCLUDED IN THIS BOOKLET

In accord with the above-mentioned statute, this booklet contains

-  Guidelines regarding end of life decisions...the Catholic Church's teaching and direction as a context for these decisions;
-  *Durable Power of Attorney for Healthcare*, a document creating a Durable Power of Attorney for Healthcare decisions;
-  *Acceptance by Patient Advocate*, a document indicating acceptance of designation by the patient advocate, intended for your physician, your family, your clergyman, and especially your patient advocate in the Durable Power of Attorney. It serves as a means to communicate your attitudes and desires to ensure that your medical care will correspond with your wishes;
-  *Wallet Identification Card*.

The forms contained in this booklet, *Durable Power of Attorney for Healthcare*, *Acceptance by Patient Advocate*, and a *Wallet Identification Card* may be duplicated.

After preparing the DPOA document, a copy should be given to your physician, family, and your designated spokesperson. A periodic review and renewal of this document is advisable.

Guidelines from the Church

EXTRAORDINARY MEANS NOT A REQUIREMENT

Over the last half-century, we have received helpful guidance from various Church documents, including Encyclicals, Declarations from Vatican Congregations, and Papal addresses. In the 1950s, Pope Pius XII reiterated the long held distinction in the Catholic moral tradition on end of life issues between “ordinary” and “extraordinary” means. The principle he articulated remains valid to this day: we have a moral obligation to take *ordinary* means to preserve life, but no one is obliged to take *extraordinary* means.

The Congregation for the Doctrine of the Faith, in their 1980 *Declaration on Euthanasia*, allows patients to forego aggressive “medical treatments” which would be disproportionate to any expected results, if such treatments would impose an excessive burden on the patient and the family. The Congregation noted, however, the duty of providing the “normal care” due a sick person. What is such “normal care”—does it include food and hydration?

FOOD AND HYDRATION, IN PRINCIPLE, ARE ORDINARY TREATMENT

In his March 20, 2004, address to the participants in the International Congress on “Life-Sustaining Treatments and Vegetative State,” Pope John Paul II said that food and hydration “*should be considered, in principle, ordinary and proportionate, and, as such, morally obligatory.*”*

* “Food and water, even when provided by artificial means, always represents a *natural means* of preserving life, not a *medical act*. Its use, furthermore, should be considered, in principle, *ordinary and proportionate*, and, as such, morally obligatory, insofar as and until it is seen to have attained its proper finality, which in the present case consists in providing nourishment to the patient and alleviation of his suffering.”

(John Paul II. Address to the Participants in the International Congress on “Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas”, The Vatican, 20 March 2004, 4.)

Pope John Paul II also stated that a patient in a “permanent vegetative state” still retains personal dignity; and, therefore, should never be considered “a vegetable” or an “animal.” He further stated that such a person has a basic right to healthcare (such as nutrition, hydration, cleanliness, warmth, etc.) and a right to appropriate rehabilitative care and continued monitoring for clinical signs of possible recovery. Moreover, he taught that even when there are waning hopes for recovery and the vegetative state is prolonged beyond a year, in the case of artificial delivery of nutrition and hydration, there is still no justification for ceasing or interrupting this minimal care so long as it attains nourishment for the patient.

USE OF PAINKILLERS: A FREE CHOICE

Some methods of palliative care bring comfort to the person in pain and the family by use of painkillers; they make suffering more bearable in the final stages of illness. As Pope John Paul II discussed palliative care in his Encyclical, *Gospel of Life*, he said it is acceptable to relieve pain by narcotics, even if such intervention decreases consciousness and shortens the patient’s life. (John Paul II. *Gospel of Life (Evangelium Vitae)*, 1995, 65)

Some people have the strength of spirit to forego the use of painkillers and choose to share with full awareness in the Lord’s Passion; such behavior is heroic and commendable, but not expected or required. Certainly, some physical suffering is part of the human condition and, when accepted with an obedient heart, it can build up the Body of Christ. (See Colossians 1:24)

EUTHANASIA: A FALSE “SOLUTION”

Pope John Paul II repeatedly cautioned against the growing popularity of mercy killing, which seeks to end another person’s life for the express purpose of eliminating suffering. Such direct intervention is actually “euthanasia,” the willful destruction of life. There is a world of difference between euthanasia—a deliberate choice to terminate life—and the very legitimate decision to forego excessive treatment or therapy.

THE LARGER CONTEXT OF FAMILY AND ETERNITY

In the Catholic tradition, the family plays a critical role in decision making. No one of us lives or dies alone; our decisions have an impact on others. Furthermore, the body in its present state is not an absolute good in itself; we are destined for eternal life.

Durable Power of Attorney for Healthcare Decisions

A Durable Power of Attorney is a legal tool used to appoint another person to act on your behalf if you are no longer able to do so yourself. The person you appoint becomes and is called your “Patient Advocate” or “agent” for healthcare decisions.

This person is legally empowered specifically to make healthcare decisions for you when you no longer can do so. Your Patient Advocate can make healthcare decisions for you in light of circumstances or conditions which may not have been included in your advance directives. The Patient Advocate, using your known wishes as a guide, but considering the present circumstances, determines what is best for you.

“An incompetent person may have made known that a particular course of action be followed, but circumstances may have so changed that the proxy (agent) believes the incompetent patient would judge differently were he or she able to do so. For example, a person may have declared that given a certain physiological condition or disease, that all life support should be removed. But the proxy might determine to continue therapy in order to have the family gather before death, to alleviate pain, or to restore consciousness for spiritual purposes. The proxy should never carry out unethical actions, for example, acts constituting euthanasia, even if this is the known wish of the incompetent person. If the patient’s wishes are not known, the proxy should consider what would be reasonable care for this patient.” *Reverend Kevin O’Rourke, O.P.*

You may choose any adult as your Patient Advocate who should be someone whom you trust and with whom you have discussed your desires and your values with respect to healthcare issues. Your Patient Advocate must understand your feelings and positions about your various healthcare decisions.

The Patient Advocate must accept the “designation” in writing that acknowledges, among other things, that

- ☞ the Power of Attorney becomes effective only if and when the patient can no longer make medical treatment decisions;
- ☞ a Patient Advocate may not make any decisions for a pregnant patient that would result in her death;
- ☞ a Patient Advocate may make a decision to withhold or withdraw treatment which would allow a patient to die only if the patient has expressed in a clear and convincing manner that the Patient Advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient’s death;
- ☞ a designation executed shall not be construed to condone, allow, permit, authorize or approve suicide or homicide.

Probate Court intervention may be used to resolve the following disputes:

- ☞ whether the patient has the capacity to make medical treatment decisions;
- ☞ whether a patient intends to revoke a particular Patient Advocate designation;
- ☞ whether a Patient Advocate is acting in the individual’s best interest.

The Patient Advocate must be 18 years or older. The “designation” is in writing, signed by two disinterested witnesses.

The DPOA may be revoked by the patient at any time in any manner, calculated to demonstrate the intent of the individual, either in written or oral form.

A copy of the Durable Power of Attorney for Healthcare form should be provided to the Patient Advocate, to the individual's treating physician, and to the appropriate family members.

This booklet has been prepared to assist in your discernment regarding the various types of medical treatment that you may or may not wish to have.

The Michigan Catholic Conference reaffirms the Catholic Church's belief in the value and dignity of human life and the respect due to each individual person.

NOTE: Witnesses must be disinterested individuals and cannot be the person's spouse, parent, child, grandchild, sibling, presumptive heir, known devisee at the time of the witnessing, physician, patient advocate, employee of a life or health insurance provider for the patient, employee of a health facility that is treating the patient, or employee of a home-for-the-aged.

Information on the Durable Power of Attorney for Healthcare is based on Michigan Public Act 312 of 1990. This information is not intended to serve as legal advice. Any legal advice needed for a particular situation should be obtained from an attorney.

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Editing and Research

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Additional copies of this booklet and forms may be obtained at the Conference website: www.micatholicconference.org.

Durable Power of Attorney for Healthcare

I, _____ of, _____, Michigan,
(Name) (City)

hereby appoint _____,
(Patient Advocate)

residing at _____,
(Patient Advocate Address)

as my attorney in fact (herein called patient advocate) with the following power to be exercised in my name and for my benefit, including, but limited to, making decisions regarding my care, custody or medical treatment. This power of attorney has effect only if I become unable to participate in medical treatment decisions.

If the first individual is unable, unwilling, or unavailable to serve as my patient advocate, then I designate

(Successor Patient Advocate)

residing at _____,
(Successor Advocate Address)

to serve as my patient advocate.

With respect to my personal care, my advocate shall have the power to make each and every judgement necessary for the proper and adequate care and custody of my person, including, but not limited to:

(If any of the following do not apply, I may cross them out and place my initials next to the cross out.)

- A. To have access to and control over my medical and other personal information.
- B. To employ and discharge physicians, nurses, therapists and any other care providers, and to pay them reasonable compensation.
- C. To give an informed consent or an informed refusal on my behalf with respect to any medical care; diagnostic, surgical, or therapeutic procedure; or other treatment of any type or nature, including life-sustaining treatments such as artificial nutrition and hydration.
- D. To execute waivers, medical authorizations and such other approvals as may be required to permit or authorize care which I may need, or to discontinue care that I am receiving.
- E. Decisions that could or would allow my death (except if I am pregnant).

My advocate shall be guided in making such decisions by what I have told my advocate about personal preferences regarding such care. Some of those preferences may be recorded below: *(Recording any of your preferences is **Optional**.)*

My wishes concerning care are as follows:

(See reverse side)

Durable Power of Attorney for Healthcare

It is my intent that my family, the medical facility, and any doctors, nurses and other medical personnel involved in my care, not be liable for implementing the decisions of my patient advocate or honoring wishes expressed in this designation.

Photostatic copies of this document, after it is signed and witnessed, shall have the same legal force as the original document.

This document is to be treated as a Durable Power of Attorney and shall survive my disability or incapacity.

This document is signed in the state of Michigan. It is my intent that the laws of the state of Michigan govern all questions concerning its validity, the construction of its provisions and its enforcement. I also intend that it be applied to the fullest extent possible wherever I may be.

I voluntarily sign this Durable Power of Attorney after careful consideration. I understand its meaning and accept its consequences.

(Signature)

(Date)

(Social Security Number)

Witnesses:

(A witness shall not sign this Durable Power of Attorney unless the person appears to be of sound mind and under no duress, fraud, or undue influence.)

Name and Addresses of Witnesses:

(Witness 1 Signature)

(Witness 2 Signature)

(A witness must be a disinterested individual and may not be the person's spouse, parent, child, grandchild, sibling, presumptive heir, known devisee at the time of the witnessing, physician, patient advocate, an employee of a life or health insurance provider for the patient, an employee of a health facility that is treating the patient, or an employee of a home-for-the-aged.)

Acceptance by Patient Advocate

- A. This designation shall not become effective unless the patient is unable to participate in medical treatment decisions.
- B. A patient advocate shall not exercise powers concerning the patient's care, custody and medical treatment that the patient, if the patient were able to participate in the decision, could not have exercised in his or her own behalf.
- C. This designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient's death.
- D. A patient advocate may decide to withhold or withdraw treatment which would allow a patient to die only if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient's death.
- E. A patient advocate shall not receive compensation for the performance of his or her authority, rights, and responsibilities, but a patient advocate may be reimbursed for actual and necessary expenses incurred in the performance of his or her authority, rights, and responsibilities.
- F. A patient advocate shall act in accordance with the standards of care applicable to fiduciaries when acting for the patient and shall act consistent with the patient's best interests. The known desires of the patient expressed or evidenced while the patient is able to participate in medical treatment decisions are presumed to be in the patient's best interests.
- G. A patient may revoke his or her designation at any time and in any manner sufficient to communicate an intent to revoke.
- H. A patient advocate may revoke his or her acceptance to the designation at any time and in any manner sufficient to communicate an intent to revoke.
- I. A patient admitted to a health facility or agency has the rights enumerated in Section 20201 of the Public Health Code, Act No. 368 of the Public Acts of 1978, Being Section 333.20201 of the Michigan Compiled Laws.

I understand the above conditions and I accept the designation as patient advocate for

Dated: _____ Signed: _____
(Patient Advocate)

Dated: _____ Signed: _____
(Successor Patient Advocate)



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