

~New Mexico~

Durable Power of Attorney for Health Care

Christian Version

EXPLANATORY SUPPLEMENT

Understanding the document
and why you answer the way you do.

You don't have to read this . . .

. . . but we wish you would. You can take the Durable Power of Attorney for Health Care – Christian Version document, fill in a few blanks, sign it, and be on your way. We ask, however, that you take the time to read this supplement. This is certainly a very important issue, and we have designed this material to help you understand not only what you have signed but why you have answered the questions the way you did.

MEDICAL DIRECTIVE STATEMENTS

The Durable Power of Attorney for Health Care (DPOAHC) document is a medical directive statement. Medical directive statements are intended to guide others on how to provide for your care if you become unable to make decisions about your health care. DPOAHC documents are preferred because they generally allow a person more options for providing health care than the living will.

MORE OPTIONS

Sometimes more options mean more confusion. The ability to customize the DPOAHC brings the Christian two challenges: 1) crafting the document to properly reflect Christian convictions which are based on God’s Word; and, 2) understanding and making choices in the medical arena that can often be confusing and overwhelming.

THE DURABLE POWER OF ATTORNEY FOR HEALTH CARE – CHRISTIAN VERSION

In the 1980s, society became very interested in medical directive statements, and individual states began formulating legislation around what were called “living wills.” Living wills appear to have been promoted primarily by the Society for the Right to Die (now called “Choice in Dying”). This pro–euthanasia organization provided samples of what were clearly “pro–death” documents designed to allow people the “right” to refuse potentially life–prolonging treatment or care in favor of life–shortening measures.

As states began to adopt these pro–death documents Christians became frustrated. It became clear society and the medical community were looking for written medical directive statements. Christians, however, found most living wills unacceptable with their convictions.

Responding to that concern, a Christian alternative document called *My Christian Declaration on Life* (DOL) was developed. More than 15,000 people made use of this document.

On countless occasions family members and medical professionals consulted that document to provide for the care of a loved one. The DOL was never legally challenged for its validity. In fact, it was greatly appreciated by legal and medical professionals alike.

The advent of the Durable Power of Attorney for Health Care documents provided people with a generally more acceptable alternative to living wills. With this growing acceptance of DPOAHC documents came the desire for many people to give a Christian witness and provide God–pleasing direction for their medical care with a document recognized within their state statutes. To assist Christians in using the customary DPOAHC document, Christian Life Resources, Inc. developed the “Christian Version.”

VALIDITY

In 1989 the U.S. Congress passed legislation requiring every medical institution receiving federal funds to inform patients of their right to have a medical directive statement. This legislation did not mandate patients to have such a document; it only mandated that patients understand their right to have such a document. Unfortunately, most people do not encounter this issue until they have to be admitted to the hospital or nursing home. Many feel that they are pressured into having a document and then feel further pressured into selecting only what is offered. It is this perception of pressure that prompted us to provide this Christian alternative to the medical directive statements typically offered.

Generally speaking, the medical community is obliged to comply with your wishes for medical care. Ideally, it is desired that people can provide verbal direction. The validity of this type of direction is first dependent upon one's state of mind when giving the verbal instructions. If a person is not mentally competent then such instructions are not necessarily valid. Also, directives cannot involve the violation of any law, regulation, or generally accepted ethical standard.

Any written document that can be verified as authentic and executed while the person was competent to do so, is generally accepted as valid.

Because there is always the possibility that verbal or written instructions may be too vague or violate an unknown regulation, states have passed legislation to allow for medical directive statements. Such legislation prescribes the critical elements of such a document.

It is important to remember that even using a document in 100 percent conformity with state statutes does not protect it fully from legal challenges. In this litigious society there are no such guarantees. Conformity to state statutes, however, certainly strengthens the document's integrity.

States are able to change their advanced medical directive statutes at will. As the statutes change we modify our documents to properly reflect those changes. The document you received is the most current that is available. Once you fill out your document, it will be legal and will not need to be changed or updated even if the statutes change. If you postpone filling out this document for an extended period of time, please call our office to ensure you have the most recent copy.

The Durable Power of Attorney for Health Care – Christian Version document has been carefully designed to be in full compliance with the statutes for the state of New Mexico. Christian Life Resources, Inc. has similar documents available for all 50 states and some Canadian provinces. If you desire this document for a state other than New Mexico, please contact Christian Life Resources, Inc. at 1-800-729-9535.

UNDERSTANDING THE DOCUMENT

This portion of the Explanatory Supplement will help you understand the Durable Power of Attorney for Health Care – Christian Version document. By following these simple directions, you will be able to understand your choices and select the options that best fit your needs and wishes.

PAGE 1

Notice to Person Making This Document

It is very important that you understand the significance of executing this document. From a Christian perspective we are more inclined to say you have a responsibility to make decisions about your health care. God’s Word reminds us that life is God’s gift to us. (Acts 17:25 – *And he is not served by human hands, as if he needed anything, because he himself gives everyone life and breath and everything else.*)

As Christians, God further reminds us in his Word that our bodies are temples of his Holy Spirit. (1 Corinthians 6:19 – *Do you not know that your bodies are temples of the Holy Spirit, who is in you, whom you have received from God? You are not your own.*) Life, therefore, is a blessing entrusted to us. As with all blessings from God, it is given in various degrees but always with the responsibility to properly care for it. (Genesis 9:5 – *And for your lifeblood I will surely demand an accounting. I will demand an accounting from every animal. And from each human being, too, I will demand an accounting for the life of another human being.*)

PAGE 2

Designation of Health Care Agent

First of all, understand that this designated person, called your “health care agent,” makes your medical decisions for you when you cannot. If you are competent, you make the decisions. Even though you completely fill out and sign this document, it only goes into effect when you can no longer make decisions for yourself.

The document allows for you to select a primary agent and alternate health care agent. The alternate agent(s) acts only when the primary health care agent is unable or unwilling to do so.

Obviously, the selection of a health care agent is very important. Some states have enacted a “pecking order” – namely, a prioritized list of particular people – to make decisions on your behalf when you become incapacitated. This list might not suit you. Therefore, you should appoint a health care agent whom you trust, who shares your beliefs, and who can handle the responsibilities of making medical treatment decisions for you when you can no longer make them for yourself.

Admission to Nursing Homes

We would advise that you discuss with your health care agents whether you wish to grant them authority to admit you on a long-term or permanent basis to a nursing home. There are some who feel they do not want to make others care for them at home and so insist on going to an institution. On the other hand, there are those who never want to be in an institution. You need to thoroughly discuss all of the options. While Christians should be willing to care for others, they also must balance all of their commitments to assure adequate care of all responsibilities.

In an attempt to be noble do not deprive loved ones of the blessing there is in caring for others. At the same time be considerate of all responsibilities your loved ones have. Carefully and completely discuss this issue.

We would suggest you check the “Yes” blank to allow flexibility for your health care agent. You may verbally express desires on this matter.

Provision of Feeding Tube

A feeding tube generally comes in two varieties: a gastrostomy tube installed directly into the abdomen and a nasogastric tube which is installed through the nasal cavity and into the stomach. There are other types of tube-feeding, but these are the most common.

A number of conditions may raise the issue of whether to start tube-feeding. Some medical conditions may significantly reduce or eliminate the ability to swallow. This would make tube-feeding necessary. Residents in extended care facilities who require spoon-feeding by staff personnel are sometimes placed on tube-feeding to reduce the demand on staff time.

The debate over the provision of tube-feeding is often expressed in clichés and exaggeration intended to mask the fundamental issue. Common arguments against tube-feeding include the notion that it is unnatural and is considered modern technology. For those reasons some feel it intrudes on what would be termed a “natural” death.

Tube-feeding is not exactly modern technology. It has been used for over 100 years. Tube-feeding is also no more “unnatural” than insulin for the diabetic, nitroglycerin for the heart patient, and dialysis for those with kidney failure. All of these represent advancements in medicine that help us care for and prolong human life.

The underlying arguments usually center around quality-of-life issues and the economy of time and resources. Tube-fed patients often have a decreased quality of life and are greater drains on financial resources and the schedules of loved ones. Society in general is finding these problems to be sufficient justification to discourage tube-feeding or discontinue it. A Christian, however, must first look to what God’s Word has to say.

The Biblical Principles That Apply Here Are As Follows:

- † 1. Human life has varying degrees of quality as a result of sin in the world.
(Matthew 15:30) *Great crowds came to him, bringing the lame, the blind, the crippled, the mute and many others, and laid them at his feet; and He healed them.*

- † 2. It is the natural tendency of sinful human beings to look differently at people based on their quality of life.
(Luke 14:12-14) *Then Jesus said to his host, “When you give a luncheon or dinner, do not invite your friends, your brothers or sisters, your relatives, or your rich neighbors; if you do, they may invite you back and so you will be repaid. But when you give a banquet, invite the poor, the crippled, the lame, the blind, and you will be blessed. Although they cannot repay you, you will be repaid at the resurrection of the righteous.”*

- † 3. God shows equal love to all people regardless of their quality of life.
(John 3:16) *For God so loved the world that he gave his one and only Son, that whoever believes in him shall not perish but have eternal life.*

- † 4. God wants us to reflect his impartiality in dealing with all people.
(James 2:1) *My brothers and sisters, believers in our glorious Lord Jesus Christ must not show favoritism.*

- † 5. God is the author of life and death.
(1 Samuel 2:6) *The LORD brings death and makes alive; he brings down to the grave and raises up.*

In applying these principles, God’s Word illustrates that taking action with the “specific intent” to end human life, such as stopping administration of food and water in any form, is wrong.

God’s Word also shows us that failing to help someone care for his body and life is equally wrong.

These principles and applications resulted in the Addendum directive which reads:

I do not give consent for the withholding or withdrawal of nutrition or hydration, even if I am diagnosed to have a terminal illness or injury, if doing so would cause my death by starvation or dehydration rather than from the terminal condition or injury.

(Addendum, Health Care Directives, p.7, #4)

There are, however, medical conditions in which tube–feeding is either not possible or futile. For example, a patient with an inoperable intestinal tumor may not be able to process food and fluids. To force any type of feeding would most likely antagonize and accelerate the dying process.

There are also situations in which, in the course of tube–feeding, the patient develops a medical condition and death is imminent. In other words, no matter what is done, death is expected to occur within the next few hours or days. In this circumstance the withholding of food and fluids does not contribute to the dying process. It is for these types of circumstances that the Addendum prescribes:

Should it become clear that God wishes to take my life, namely that I am diagnosed to have a terminal illness or injury where death is imminent, I direct that life-sustaining procedures be withheld or withdrawn, and that I be permitted to die in God's time.

(Addendum, Health Care Directives, p.7, #4)

In summary, when food and fluids sustain life, they are to be provided regardless of the patient's quality of life. If such feeding, however, is not possible or futile, one is not obliged to pursue it.

Remember, the purpose of designating your health care agent in a medical directive statement is to allow that agent to make medical decisions for you when are unable to do so. In this section, it authorizes your agent to remove tube-feeding when it is *contraindicated* (meaning, tube-feeding is no longer sustaining your life, or it is harming your life – such as when an intestinal blockage prevents the body from processing ingested food). In other words, your agent can authorize its withholding or withdrawal.

In light of this explanation and the provisions in the Addendum we suggest you check the "Yes" blank.

PAGE 3

PROVISION OF FEEDING TUBE

My health care agent may have orally ingested nutrition or hydration withheld or withdrawn from me unless provision of the nutrition or hydration is medically contraindicated.

Withhold or withdraw a feeding tube Yes No (SEE ADDENDUM – pages 7-10)

If I have not checked either "Yes" or "No" immediately above, my health care agent may not have a feeding tube withheld or withdrawn from me.

PAGE 4

Health Care Decisions for Pregnant Women

While you are given the choice of whether or not to grant your health care agent the right to make health care decisions for you if you are pregnant, we suggest you select "Yes." If this section neither presently, nor ever will, have application for you, draw a single line through the "Yes" and "No" selections and write "N/A" which means it is "Not Applicable."

Statement of Desires, Special Provisions, or Limitations

The first two additions are provided for you. The first is a request that adds the Addendum to the Durable Power of Attorney for Health Care document. This means that your agent will follow the directives in the Addendum just like the directives in the main document. The second request is not a requirement. It provides for your agent to contact your clergy for input and advice as needed when health care decisions are made.

You are permitted to include additional restrictions particularly related to the issues of life-prolonging care, treatment, services, and procedures. This is where you may add specific instructions regarding resuscitation orders. We advise extreme caution in getting too specific. Sometimes these matters are best handled by the health care agent when they come up. Courses of action may vary depending on the circumstances and your overall health. As a general rule, we advise that you leave these lines blank.

You are permitted to request resuscitation or no resuscitation in the Durable Power of Attorney for Health Care document. Be aware that emergency medical personnel are generally required to perform resuscitation unless they see specific and immediate evidence that you have rejected resuscitation. We suggest you speak with your doctor on providing options for that immediate evidence which may be a smaller document, card, or bracelet.

HIPAA Release Statement

The Health Insurance Portability and Accountability Act is a federal law that is designed to protect your personal health information and to prohibit the sharing of that information with any unauthorized personnel. Although not legally required, this statement is a critical component of your medical directive. This section specifies that your health care agent has the right to receive or share any of your personal health information that is needed to make appropriate decisions regarding your medical treatment.

PAGE 5

Signature of Principal

After filling in the selections on page 2, you need to sign on page 5.

PAGE 5
The principal and the witnesses must sign the document at the same time.
SIGNATURE OF PRINCIPAL (Person creating this Durable Power of Attorney for Health Care)
Signature: _____ Date: _____
(The signing of this document by the principal revokes all previous Durable Power of Attorney for Health Care documents.)

Statement of Witnesses

This signature should be witnessed by two adult witnesses. You should sign both the Durable Power of Attorney for Health Care – Christian Version document and the attached Addendum in the presence of those two witnesses, who will then sign in their designated areas. We recommend the signatures of two qualified witnesses – even in

states like New Mexico where none are required – because it helps to ensure your document is compliant with the requirements of all states.

PAGE 6

Anatomical Gifts

New Mexico statutes allow you to designate an anatomical gift within your DPOAHC. This is an option that is available to you, but it is not a requirement. If you choose to make an anatomical gift, you should check one of the first three lines. If you check the first line, you need to indicate which organs or parts you are willing to donate. If you check the second line, you do not need to indicate any particular organs or parts because the doctors will take any organ or part that is usable and needed. If you check the third line, you are saying that your entire body will be available for study and research after you die.

If you choose not to make an anatomical gift, you should check the fourth line. If you have previously promised to make an anatomical gift to a particular person, and have now changed your mind, you should attempt to contact the potential donee so he or she knows that you are no longer willing to make this anatomical gift.

Even though this section is optional, we recommend that you check one of the lines. By checking a line, you make your desires clearly known for your health care agent and your loved ones. After checking one of the lines, you should sign your name and write the date on the lines provided.

UNDERSTANDING THE ADDENDUM

The Addendum makes up the rest of the DPOAHC document. It gives specific directions to your health care agent to help that person make decisions consistent with your desires. Due to the detail found in this portion of the document, you should sign the Addendum on page 8 at the same time you sign page 5. Since this Addendum has information that describes your wishes, it should be witnessed at the same time as the DPOAHC.

PAGES 7-8

Exceptions to Health Care Directives

Point #3 reads as follows:

“If I have an incurable terminal illness or injury, and it is medically certain that my death will occur within six (6) months, my health care representative may consent to the withholding or withdrawal of life-sustaining health care. However, I still desire health care for easily treatable acute and chronic conditions, and health care that is intended to relieve pain or make me comfortable.”

(Addendum, Exceptions to Health Care Directives, p.8, #3)

The condition noted as “an incurable terminal illness or injury” is caused by substantial damage to vital organs; meaning, the condition is irreversible, and death is “medically certain” to occur within six months. Experience shows that in those circumstances even the administration of “life-sustaining health care” may, in fact, prolong and antagonize the dying process. Most often the issue arises as the body seems progressively unable to process oxygen (requiring ventilator support), endure dialysis, and even process food. To continue these otherwise life-sustaining efforts when they are now causing suffering would both be cruel and appear to challenge God’s prerogative to bring life to an end. This is explained in the Addendum as such:

“... Similarly, I reject any attempt to lengthen my life when it is clear God intends to take it.”
(Addendum, My Health Care Statement of Beliefs, p.7, paragraph #2)

Point #3 (as noted in italics above) acknowledges these circumstances and permits the health care representative to decide to stop such life-sustaining treatment that would appear to prolong and antagonize the dying process.

Can this judgment be abused? Certainly. Individual paragraphs can be lifted from this document to serve nefarious purposes. The document, however, venerates the inherent value of human life and God’s authority over it. As such, no paragraph in the entire document permits any effort specifically taken with the motive to shorten life. To state it practically, if a life-sustaining measure is effective and it is not prolonging and antagonizing the dying process, then it should not be removed if the motive is to intentionally shorten life. The document states that point well in the section of the Addendum entitled “Nutrition and Hydration.”

The value of this advance directive is to relay one’s values regarding life as God’s gift. Because medical options abound at every turn, it is impossible to anticipate each scenario. Our experience has been that there have been situations in which death appeared medically certain to come within six months and that what otherwise would be routine life-sustaining treatment actually prolonged and agonized the dying process because of the body’s inability to benefit from the treatment(s). CLR’s approach clearly rejects withdrawing food and fluids with the intent to shorten life, recognizing that in some instances even life-sustaining treatment can become the hardship.

It is also important to note is that we carefully worded the withdrawal of life-sustaining care to be a decision made by the health care agent who is well-indoctrinated in the Christian values of the patient and has an abiding respect for God’s authority over life. In other words, this right is not entrusted to just anyone, but to someone designated by the patient who is looking out for God’s interest, and the interest of God’s child (the patient).

PAGE 8

Pregnant Women

God’s Word clearly teaches that life begins at conception (Psalm 51:5 – *Surely I was sinful at birth, sinful from the time my mother conceived me*). That being the case, the

same directives that prescribe care and sustenance for an adult would also apply for the unborn.

The Addendum spells out your conviction on the value of human life from the moment of conception. It instructs others to essentially proceed with treatment with the understanding that a pregnant woman represents two patients of equal value and concern.

PAGE 9

Signature of Principal

The person filling out the form must sign again. After signing the Durable Power of Attorney for Health Care document on page 5, you should now sign this Addendum. This verifies you are in agreement with the statements made in this Addendum and also communicates your choices in the areas you have checked.

Statement of Witnesses

As with the Durable Power of Attorney for Health Care on page 5, it is recommended to have the principal's signature witnessed by two qualified adult witnesses. Although the state of New Mexico does not require two witnesses' signatures, it helps to ensure your document is compliant with the requirements of all states. Be sure to sign the document while the witnesses are present.

PAGES 9-10

Statements of Health Care Agent and Alternate Health Care Agent

The people you choose as your health care agent and alternate health care agent should sign this Addendum. It is desired to have the signatures on this Addendum as well as on the DPOAHC document. This verifies they understand your specific desires as stated in this Addendum and are willing to make health care decisions for you in agreement with these statements. Your health care agent and alternate health care agent do not need to sign at the same time you do.

PAGE 10

Signature of Clergy

This portion of the Addendum allows you to have your clergy sign the document. This is an option which you have. You are not required to have the clergy's signature.

WHAT TO DO WITH THE COMPLETED DOCUMENT

We suggest that the original document be retained by you in a location known by your trusted relatives and friends. Generally, this would be in an unlocked file cabinet or dresser drawer. You want to be sure your designated health care agent and/or other trusted individual(s) can easily get to it, if needed.

Make copies* of this entire document after it has been fully completed and give one to each of the following:

- Health care agent;
- Alternate health care agent;
- Your primary physician;
- Your congregation for safe-keeping on file.

You may also wish to provide copies to other close friends or relatives.

*Copyright permission is granted to duplicate the Durable Power of Attorney for Health Care document and Addendum if those copies are to be used for informational purposes only.

UPDATING YOUR COMPLETED DOCUMENT

It is very important that your Durable Power of Attorney for Health Care remains current. We suggest that you review it once a year or when events in your life change. Think about the “5 Ds” to decide when you should change or update your medical directive: 1) Decade birthday; 2) Diagnosis of a life-threatening condition; 3) Deterioration of health status; 4) Divorce; and, 5) Death of someone close to you or that may affect your directive. You should also update address and contact information for your agent and alternate agent if these change.

IN SUMMARY

By federal law most health care institutions are required to inform you of your “right” to have a medical directive statement. They may even have offered you this document or one of their own choosing. At any rate, while you have the “right” to have such a document, you are not “required” to have one. Various institutions often have an “in-house” protocol for medical care to those without statements. You will be subject to that protocol if you have no statement.

While Christian Life Resources, Inc. has spent considerable resources in drafting this document we readily acknowledge that your best protection is to have a well-informed family and a doctor who clearly understands your wishes. We suggest that when you complete the document you meet with your loved ones and go through it line by line. Then schedule an appointment with your doctor and do the same with him or her.

This document is designed not only to provide direction for your medical care but is to be a tool for the Christian witness. When you discuss it with loved ones and your doctor, be sure to use this explanatory document to help you illustrate for them your convictions about God as the Author, Terminator, and Savior of life.

It is our prayer that as you walk through this process of drawing up your health care document your faith will be strengthened by the reminder of God’s authority over all things. May you also find peace and satisfaction that you have taken this step towards assuring that your life is lived in conformity to God’s will to the very end.

May the power and glory be His forever!

For more information, contact:

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