

Durable Power of Attorney for Health Care

(Wisconsin Statutes Annotated §§ 155.01 - .80)

NOTICE TO PERSON MAKING THIS DOCUMENT

YOU HAVE THE RIGHT TO MAKE DECISIONS ABOUT YOUR HEALTH CARE. NO HEALTH CARE MAY BE GIVEN TO YOU OVER YOUR OBJECTION.

BECAUSE YOUR HEALTH-CARE PROVIDERS IN SOME CASES MAY NOT HAVE HAD THE OPPORTUNITY TO ESTABLISH A LONG-TERM RELATIONSHIP WITH YOU, THEY ARE OFTEN UNFAMILIAR WITH YOUR BELIEFS AND VALUES AND THE DETAILS OF YOUR FAMILY RELATIONSHIPS. THIS POSES A PROBLEM IF YOU BECOME PHYSICALLY OR MENTALLY UNABLE TO MAKE DECISIONS ABOUT YOUR HEALTH CARE.

IN ORDER TO AVOID THIS PROBLEM, YOU MAY SIGN THIS LEGAL DOCUMENT TO SPECIFY THE PERSON WHOM YOU WANT TO MAKE HEALTH-CARE DECISIONS FOR YOU IF YOU ARE UNABLE TO MAKE THOSE DECISIONS PERSONALLY. THAT PERSON IS KNOWN AS YOUR HEALTH-CARE AGENT. YOU SHOULD TAKE SOME TIME TO DISCUSS YOUR THOUGHTS AND BELIEFS ABOUT MEDICAL TREATMENT WITH THE PERSON OR PERSONS WHOM YOU HAVE SPECIFIED. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF HEALTH CARE THAT YOU DO OR DO NOT DESIRE, AND YOU MAY LIMIT THE AUTHORITY OF YOUR HEALTH-CARE AGENT. IF YOUR HEALTH-CARE AGENT IS UNAWARE OF YOUR DESIRES WITH RESPECT TO A PARTICULAR HEALTH-CARE DECISION, HE OR SHE IS REQUIRED TO DETERMINE WHAT WOULD BE IN YOUR BEST INTERESTS IN MAKING THE DECISION.

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT GIVES YOUR AGENT BROAD POWERS TO MAKE HEALTH-CARE DECISIONS FOR YOU. IT REVOKES ANY PRIOR POWER OF ATTORNEY FOR HEALTH CARE THAT YOU MAY HAVE MADE. IF YOU WISH TO CHANGE YOUR POWER OF ATTORNEY FOR HEALTH CARE, YOU MAY REVOKE THIS DOCUMENT AT ANY TIME BY DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN YOUR PRESENCE, BY SIGNING A WRITTEN AND DATED STATEMENT OR BY STATING THAT IT IS REVOKED IN THE PRESENCE OF TWO WITNESSES. IF YOU REVOKE, YOU SHOULD NOTIFY YOUR AGENT, YOUR HEALTH-CARE PROVIDERS AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY. IF YOUR AGENT IS YOUR SPOUSE AND YOUR MARRIAGE IS ANNULLED OR YOU ARE DIVORCED AFTER SIGNING THIS DOCUMENT, THE DOCUMENT IS INVALID.

DO NOT SIGN THIS DOCUMENT UNLESS YOU CLEARLY UNDERSTAND IT.

Durable Power of Attorney for Health Care

(1) I, _____, _____
Print your full name

am of sound mind and I voluntarily make this Durable Power of Attorney for Health Care. There are two parts to this document: Part 1 sets forth my health-care instructions; Part 2 appoints a person to make health-care decisions for me on matters not covered in my instructions. This document shall take effect upon my incapacity.

PART 1—Health-Care Instructions

(2) I am one of Jehovah's Witnesses. On the basis of my firmly held religious convictions, see *Acts* 15:28, 29, and on the basis of my desire to avoid the numerous hazards and complications of blood, I absolutely, unequivocally and resolutely refuse homologous blood (another person's blood) and stored autologous blood (my own stored blood) under any and all circumstances, no matter what my medical condition. This means no whole blood, no red cells, no white cells, no platelets, and no blood plasma no matter what the consequences. Even if health-care providers (doctors, nurses, etc.) believe that only blood transfusion therapy will preserve my life or health, I do not want it. Family, relatives or friends may disagree with my religious beliefs and with my wishes as expressed herein. However, their disagreement is legally and ethically irrelevant because it is my subjective choice that controls. Any such disagreement should in no way be construed as creating ambiguity or doubt about the strength or substance of my wishes.

Also, because many health-care providers view Jehovah's Witnesses' refusal of blood with disapproval and even hostility, I am concerned that someone may claim that I orally consented to a blood transfusion. Thus, I hereby state that it is my conscious decision that my absolute refusal of blood transfusion shall not be revocable by me orally. If anyone claims that I have orally consented to a blood transfusion, I demand that such claim be ignored unless confirmed in writing signed by me and subscribed by at least two disinterested witnesses.

(3) With respect to minor blood fractions* or products containing minor blood fractions, according to my conscience I ACCEPT: [initial one of the three choices below]

___ (a) NONE.

___ (b) ALL.

___ (c) SOME. That is, I ACCEPT: [initial choice(s) below]

___ Products that may have been processed with or contain small amounts of albumin (e.g., streptokinase, and some recombinant products [such as erythropoietin (EPO) and synthesized clotting factors], and some radionuclide scan preparations may contain albumin).

___ Immunoglobulins (e.g., Rh immune globulin, gammaglobulin, horse serum, snake bite antivenins).

___ Clotting factors (e.g., fibrinogen, Factors VII, VIII, IX, XII).

___ Other: _____

(4) I accept and request alternative nonblood medical management to build up or conserve my own blood, to avoid or minimize blood loss, to replace lost circulatory volume, or to stop bleeding. For example, volume expanders such as dextran, saline or Ringer's solution, or hetastarch would be acceptable to me.

(5) With respect to non-stored autologous blood* (my own non-stored blood), according to my conscience I ACCEPT: [initial choice(s) below]

___ (a) DIALYSIS OR HEART-LUNG EQUIPMENT (diversion of my blood within an extracorporeal circuit that does not involve storage or more than brief interruption of blood flow and that is constantly linked to my circulatory system, provided any equipment used is not primed with stored blood).

___ (b) HEMODILUTION (dilution of my blood within an extracorporeal circuit that does not involve storage or more than brief interruption of blood flow and that is constantly linked to my circulatory system, provided any equipment used is not primed with stored blood).

___ (c) INTRAOPERATIVE OR POSTOPERATIVE BLOOD SALVAGE (contemporaneous recovery and reinfusion of blood lost during or after surgery that does not involve storage or more than brief interruption of blood flow, provided any equipment used is not primed with stored blood).

___ (d) NONE.

(6) With respect to providing, withholding, or withdrawing life-sustaining procedures at the end of life, and in no way altering my absolute refusal of blood as directed above, I CHOOSE: [initial one of the three choices below]

_____ (a) NOT TO PROLONG LIFE.* That is, if to a *reasonable degree of medical certainty my condition is hopeless* (for example, if to a reasonable degree of medical certainty I have an incurable and irreversible condition that will result in my death within a relatively short time, or if I am unconscious and to a reasonable degree of medical certainty will not regain consciousness, or if I have brain damage or a brain disease that makes me unable to recognize people or communicate and to a reasonable degree of medical certainty my condition will not improve), I do not want my life to be prolonged. Thus, in such situations, I do not want mechanical respiration (ventilation), cardiopulmonary resuscitation (CPR), tube feeding (artificial nutrition or hydration), etc. However, I do want palliative care—treatment for comfort.

_____ (b) TO PROLONG LIFE. That is, I want my life to be prolonged as long as possible within the limits of generally accepted health-care standards, although I realize this means that I might be kept alive on machines for years in a hopeless condition.

_____ (c) OTHER. [If you do not completely agree with either (a) or (b) above, you can initial here and write your own end-of-life instructions in the space provided.—NOTE: Unless your agent knows your wishes about artificial nutrition and hydration, your agent may not be able to make decisions about these matters.]

(7) Other health-care instructions (e.g., your wishes regarding organ donation, current medication, allergies, other medical problems, etc.): _____

(8) I am primarily concerned that my refusal of blood and choice of alternative nonblood management be respected regardless of my medical condition. My rights under the federal and state constitutions and state common law require health-care providers to respect and comply with my treatment decisions. My rights are not dependent on, and do not vary with, my medical condition. Thus, my decision to refuse blood and choose nonblood management must be respected even if my life or health is deemed to be threatened by my refusal. *Stamford Hosp. v. Vega*, 674 A.2d 821 (Conn. 1996) (Witness patient's refusal of blood protected by state common law right of bodily self-determination); *In re Dubreuil*, 629 So. 2d 819 (Fla. 1993) (Witness patient's refusal of blood protected by state constitutional rights of personal privacy and religious freedom); *Norwood Hosp. v. Munoz*, 564 N.E.2d 1017 (Mass. 1991) (Witness patient's refusal of blood protected by state common law right of bodily self-determination and federal constitutional right of personal privacy); *Fosmire v. Nicoleau*, 551 N.E.2d 77 (N.Y. 1990) (Witness patient's refusal of blood protected by state common law right of bodily self-determination); *In re E.G.*, 549 N.E.2d 322 (Ill. 1989) (Witness patient's refusal of blood protected by state common law right of bodily self-determination); *Public Health Trust v. Wons*, 541 So. 2d 96 (Fla. 1989) (Witness patient's refusal of blood protected by state constitutional rights of personal privacy and religious freedom); *In re Milton*, 505 N.E.2d 255 (Ohio 1987) (non-Witness patient's religion-based refusal of treatment protected by 1st Amendment guarantee of free exercise of religion); *In re Brown*, 478 So. 2d 1033 (Miss. 1985) (Witness patient's refusal of blood protected by state constitutional rights of personal privacy and religious freedom); *In re Osborne*, 294 A.2d 372 (D.C. 1972) (Witness patient's refusal of blood protected by 1st Amendment guarantee of free exercise of religion); *In re Estate of Brooks*, 205 N.E.2d 435 (Ill. 1965) (Witness patient's refusal of blood protected by 1st Amendment guarantee of free exercise of religion).

* [This footnote applies only to pregnant women.] If I am pregnant and there is a reasonable chance my fetus could survive, I want my life to be prolonged for the sake of my fetus, notwithstanding my instructions in Paragraph (6)(a). However, in no way does this change my wishes about nonblood treatment for both myself and my fetus. After any efforts to save my fetus, my instructions in Paragraph (6)(a) shall again control.

The United States Supreme Court has said that “[i]t is settled now ... that the Constitution places limits on a State’s right to interfere with a person’s most basic decisions about ... bodily integrity.” *Planned Parenthood v. Casey*, 505 U.S. 833, 849 (1992). In *Cruzan v. Missouri Department of Health*, 497 U.S. 261 (1990), the Supreme Court stated: “It cannot be disputed that the Due Process Clause [of the Fourteenth Amendment to the United States Constitution] protects an interest in life as well as an interest in refusing life-sustaining medical treatment.” *Id.* at 281. The Court also said: “The principle that a competent person has a constitutionally protected liberty interest in refusing unwanted medical treatment may be inferred from our prior decisions.” *Id.* at 278. In addition, in *Washington v. Harper*, 494 U.S. 210 (1990), the Supreme Court said that prison inmates suffering from mental disorders possess “a significant liberty interest in avoiding the unwanted administration of antipsychotic drugs under the Due Process Clause of the Fourteenth Amendment.” *Id.* at 221-22. The Court also observed that “[t]he forcible injection of medication into a nonconsenting person’s body represents a substantial interference with that person’s liberty.” *Id.* at 229.

There is no indication in these Supreme Court cases that a person must be in a terminal, irreversible, incurable or untreatable condition, or in a permanently unconscious or vegetative state in order to exercise his fundamental Fourteenth Amendment right to refuse treatment or otherwise control what is done to his body. Indeed, Nancy Cruzan herself was not terminally ill. See 497 U.S. at 266, n.1. Moreover, implicit throughout the majority opinion in *Cruzan* and expressly stated in Justice O’Connor’s concurrence and all the dissents (except Justice Scalia’s) is the acceptance of advance written directives as clear and convincing evidence of a formerly competent patient’s wishes. Therefore, because I have prepared this advance directive while competent, if I become incompetent, my wishes as expressed herein must be respected as if I were competent.

- (9) [This paragraph applies only to pregnant women.] In *Planned Parenthood v. Casey*, 505 U.S. 833, 860 (1992), the Supreme Court confirmed that “viability marks the earliest point at which the State’s interest in fetal life is constitutionally adequate to justify a legislative ban on therapeutic abortions.” Thus, since I have the right to abort my pregnancy before viability I necessarily have the lesser right to refuse blood transfusions before viability. In addition, even if my fetus is viable, the Supreme Court has said that mothers cannot be exposed to increased medical risks for the sake of their fetuses and that the state’s interest in the potential life of the fetus is insufficient to override the mother’s interest in preserving her own health. *Thornburgh v. American College of Obstetricians & Gynecologists*, 476 U.S. 747, 768-71 (1986); see *Planned Parenthood v. Casey*, 505 U.S. 833, 846 (1992). Also, in the cases of *In re A.C.*, 573 A.2d 1235 (D.C. 1990), and *In re Doe*, 632 N.E.2d 326 (Ill. App. Ct.), cert. denied, 114 S. Ct. 1198 (1994), refusals of treatment by women with viable fetuses were upheld. Although both of these cases involved Caesarean sections, as a matter of principle and logic they show that it is the pregnant woman who should decide what is to be done to herself and her fetus. Therefore, I demand that my refusal of blood and choice of alternative nonblood management be followed and that my doctors manage my care and the care of my fetus without transfused blood.
- (10) In sum, based on federal and state constitutional law and state common law, I demand that the instructions set forth in this document be followed regardless of my medical condition. Any attempt to administer blood to me contrary to my instructions will be a violation of my Fourteenth Amendment liberty interest in bodily self-determination, my First Amendment right of religious free exercise, my state constitutional rights of personal liberty or privacy and religious freedom, and my state common law rights of bodily self-determination and personal autonomy.

PART 2—Appointment of Health-Care Agent

- (11) I hereby appoint the following person as my health-care agent: [Notice: Neither the health-care agent nor the alternate may be your health-care provider, an employee of a health-care facility in which you are a patient or a spouse of any of those persons, unless he or she is also your relative.]

Agent’s full name: _____

Agent’s address: _____

Work Telephone: (____) _____ Home Telephone: (____) _____ Other: (____) _____

- (12) If the agent appointed above is unavailable, unable, or unwilling to serve or continue to serve, then I appoint the following alternate agent to serve with the same powers: [See “Notice” in Paragraph 11 above.]

Alternate agent’s full name: _____

Alternate agent’s address: _____

Work Telephone: (____) _____ Home Telephone: (____) _____ Other: (____) _____

- (13) To the extent this document sets forth my health-care instructions, there is no need or reason to look to my agent for a decision. However, I grant my agent full power and authority to ensure that the wishes expressed in this document are followed by health-care providers. Further, I grant my agent full power and authority to make health-care decisions for me on matters not covered by this document. My agent's authority is effective as long as I am incapable of making my own health-care decisions.
- (14) In harmony with the limitations in the preceding paragraph, my agent's authority shall include but not be limited to the following:
 - (a) To consent to, refuse, or withdraw consent to any or all types of medical care treatment, surgical procedures, diagnostic procedures, medication, and the use of other mechanical or other procedures related to health care. This authorization includes the power to consent to pain-relieving medication for relief of severe and intractable pain.
 - (b) To request, review, and receive any information, oral or written, regarding my physical or mental health, including, but not limited to, medical and hospital records, and to consent to the disclosure of this information.
 - (c) To employ or discharge my health-care providers; to authorize my admission to or discharge from any hospital, nursing home, community-based residential facility, or other medical care facility, whether for short-term or long-term stay; and to take any lawful actions that may be necessary to carry out my wishes, including the granting of releases from liability to health-care providers.
- (15) A copy of this document shall be as valid as the original. I ask that a copy of this document be made part of my permanent medical record. I have provided copies of this document to my health-care agent and alternate agent. It is my intention that this document be honored in any jurisdiction in which it is presented and that it be construed liberally to give my agent the fullest discretion in making health-care decisions in my behalf consistent with my instructions.
- (16) If my health-care providers cannot respect my wishes as expressed in this document or as otherwise known to my agent and a transfer of care is necessary to effectuate my wishes, I direct my health-care providers to cooperate with and assist my agent in promptly transferring me to another health-care provider that will respect my wishes. In such circumstances, I direct my health-care providers to transfer promptly all my medical records, including a copy of this document, to the other health-care provider.
- (17) This document revokes any prior living will, health-care power of attorney or health-care proxy executed by me.
- (18) The provisions of this entire document are separable, so that the invalidity of one or more provisions shall not affect any others.
- (19) I understand the full import of this document and I am emotionally and mentally competent to execute it.

(20) SIGNED: _____
 Your signature Date

Address

(21) STATEMENT OF WITNESSES: I know the person who signed this document (the principal) personally and I believe him or her to be of sound mind and at least 18 years of age. I believe that his or her execution of this power of attorney for health care is voluntary. I am at least 18 years of age, am not related to the principal by blood, marriage or adoption and am not directly financially responsible for the principal's health care. I am not a health-care provider who is serving the principal at this time, an employee of the health-care provider, other than a chaplain or a social worker, or an employee, other than a chaplain or a social worker, of an inpatient health care facility in which the principal is a patient. I am not the principal's health-care agent or alternate agent. To the best of my knowledge, I am not entitled to and do not have a claim on the principal's estate.

Signature of witness 1 / Date	Signature of witness 2 / Date
Print name	Print name
Address	Address

(22) STATEMENT OF HEALTH-CARE AGENT AND ALTERNATE AGENT:

I understand that _____ (*name of principal*) has designated me to be his or her health-care agent or alternate agent if he or she is ever found to have incapacity and unable to make health-care decisions himself or herself.

_____ (*name of principal*) has discussed his or her desires regarding health-care decisions with me.

Signature of health-care agent

Signature of alternate agent

Print name

Print name

Address

Address