

# Opinion: 10 things to know about healthcare directives

**BY: STEPHEN F. ATON, INDUSTRY INSIGHT**

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In 1991, Missouri amended its power of attorney law to allow for the appointment of a health care decision-maker. Before that time, Missouri law did not clearly sanction such an appointment and the legislature had a desire to clarify the issue. As a result, the Durable Power of Attorney for Health Care Act is codified in the state revised statutes. The following 10 items are important in understanding both the powers and limitations of the law.

1. **No one can make decisions for you.** If you are unable to express your desires, for health care or any other matter, no one can act on your behalf, unless you have a durable power of attorney, or a court has appointed a guardian and conservator to act on your behalf. For this reason, it is a good idea to have a durable power of attorney, especially for health care decisions.
2. **You want a durable power of attorney for health care.** A standard power of attorney is effective only so long as you are well and of sound mind. A durable power of attorney, however, allows your decision-maker, called an attorney-in-fact, to act for you if you are unable to act for yourself. You do not need someone to act for you if you can express your desires. You only need someone to act for you if you cannot express your health care desires.
3. **The power of attorney is revocable.** If you decide to change the attorney-in-fact or for any reason no longer desire the power of attorney to remain in effect, you may revoke it and make a new one.
4. **Do one power of attorney for health care and another for financial matters.** If it becomes necessary for your power of attorney to be recorded, for example, when your attorney-in-fact needs to sign a real estate deed on your behalf, your private health care information would also become public if both health care and financial matters were combined in one document. For that reason, executing two powers of attorney may be advisable.
5. **Nominate an attorney-in-fact and a backup.** You will name an attorney-in-fact to act on your behalf. You may also name an alternate in case the person named first is unable to act or resigns. Especially with a health care power of attorney, it is advisable to nominate attorneys-in-fact sequentially rather than naming more than

one person to act jointly. If joint attorneys-in-fact were unable to agree with respect to the actions to be taken, there would be a problem.

6. **Name someone you trust as attorney-in-fact.** The person to name as attorney-in-fact is an important decision. You should name someone that you feel will faithfully execute your desires for health care. For a married couple, you would typically name your spouse, unless they were not able to serve for some reason. If the first person named as attorney-in-fact cannot serve, you may wish to nominate one or more children, or another relative. You can name a friend if you prefer. If you have no one to name, you may also name the public administrator to act on your behalf.
7. **Authorize withholding of nutrition and hydration if desired.** Many people do not wish to be kept alive with tube feeding if they are persistently unconscious or there is no reasonable expectation of recovery from their condition. If you want your decision-maker to withhold nutrition and hydration, you must specifically grant that power in your health care power of attorney.
8. **Ensure the document is properly filed.** Like a last will and testament, a durable power of attorney for health care must be witnessed by two people and notarized. Do not have the nominated attorney-in-fact or a relative serve as a witness.
9. **The power of attorney travels with you.** A properly executed Missouri power of attorney should be valid in all 50 states. If you move to another state, you may wish to redo the instrument to make it conform with the practice in your new area, but it is not required.
10. **Determine needed directives in your power of attorney.** You may desire to include directives to aid your decision-maker in carrying out your health care wishes. If you wish for certain procedures to be used or not used, you can specify that fact in the document. Any desires that are expressed in the document will assist your attorney-in-fact in making difficult health care decisions.

*Stephen F. Aton is a Springfield attorney at Aton Law Firm, practicing corporate law, real estate and estate planning. He can be reached at [steve@atonlaw.com](mailto:steve@atonlaw.com).*