

HEALTH DECISION-MAKING 2024

This program is meant to help educate, but not direct you as to the Wisconsin law and options for decision-making when an adult becomes temporarily or permanently unable to make decisions related to the person's health or other needed care.

1. Who can make health and other care decisions for a person unable to do so?
The general answer for an adult in Wisconsin is no one; not a spouse or an adult child, not a parent or anyone else, if there is no health care power of attorney or court appointed guardian is in place.
2. Why is this important?
Because you may not receive the treatment, placement or other care you need or want. You may be stuck in a hospital when you need other care. Without a valid Power of Attorney for Health Care decisions, someone may need to petition a court to appoint a legal guardian to make health care decisions for you and discharge you from the hospital. This guardian could be someone unknown to you (corporate guardian, attorney, other) or someone you would not want. Guardianships do have safeguards, but can be expensive and limiting.
3. What is a Power of Attorney for Health Care (HCPOA) document?
In general, in Wisconsin, it is a document you execute (properly signed and witnessed) which appoints one or more persons (agents) to make health care related decisions for you if do not have cognitive "capacity" to make your own such decisions as certified by 2 physicians or a physician and another specified medical professional. A HCPOA must be activated before an agent may act.
4. Can I do a HCPOA myself?
Wisconsin has a statutory HCPOA which anyone can use, which I will go over next in this presentation. However, I suggest you have a Wisconsin lawyer advise and help you through the process of advance planning, as knowledgeable lawyers may have better options given your current and possible future needs.
5. What are the steps in forming and completing a HCPOA?
 - Decide who you trust and want to make health care related decisions for you (the agents) if you cannot do so yourself, either temporarily or permanently.
 - Talk to your prospective agent(s), and make sure they understand your wishes and are willing to serve as your health care agent.
 - Make sure you give your agent(s) an appropriate degree of authority to make any future needed medical or placement decisions for you if you can't. I suggest you only appoint an agent you completely trust to make appropriate health care decisions for you, including end of life and placement/living arrangements for you if you become incapacitated, and cannot decide this for yourself.
 - Read the HCPOA document and be sure you understand it, and know how to properly complete the document if you are doing it yourself.
 - Only lawyers can draft valid Wisconsin HCPOAs that differ from the Wisconsin statutory form HCPOA.

-To be valid a HCPOA must be signed in the presence of 2 adult witnesses who cannot be the agents appointed or certain health care providers.

-Before your agents can act/make health care decisions, they must sign the acknowledgment on the HCPOA.

-After the HCPOA is completed, make sure your agents and ideally all your doctors have copies of it. A copy of an original executed Wisconsin HCPOA is as valid as the signed original. I suggest you also keep electronic copies of your HCPOA (pdf format, other).

6. Does executing a HCPOA take away your rights to make health care and placement decisions once health care professionals determine you as incapacitated?

In Wisconsin actually no. You can still object to medical treatment, or for example, placement in a nursing home or other long term care facility. Further HCPOA agents cannot admit you to a mental institution (even if you need it).

7. Is a health care Advance Directive the same as a HCPOA? No, gives only guidance.
8. Can a parent(s) appoint an agent to make health and other care related decisions for their child/children if they are unable to do so?

In Wisconsin yes. Parents may execute a power of attorney for the purpose of providing for the care and custody of their children when they temporarily or permanently cannot do so, including:

- The power to consent to all health care
- Emergency blood transfusion
- Dental care
- Disclosure of health information about the children
- The power to consent to educational and vocational services
- The power to consent to the employment of the children
- The power to consent to the disclosure of confidential information, other than health information, about the children
- The power to provide for the care and custody of the children
- The power to consent to the children obtaining a motor vehicle operator's license
- The power to travel with the children outside the state of Wisconsin
- The power to obtain substitute care,

9. Where can I get Wisconsin HCPOA and other Statutory forms: [Advance Directives: Forms | Wisconsin Department of Health Services](#)

Also see Chapters 48 and 155 Wisconsin Statutes

Many hospitals have forms on their websites, but check Wisconsin validity.

10. What else should I do?

-Discuss your plans and wishes with family and agents and periodically review and update. Both your circumstances and the law can change over the years.

-Perhaps do a My Choices form indicating what is/is not important to you in life.

-If you move/live out of Wisconsin check the laws, and whether your Wisconsin planning is still valid or effective in the other/new state.