

# Who will make your health care decisions when you can't?

## WHAT is a Healthcare Power of Attorney (POA)?

- A Healthcare Power of Attorney is a document that allows you to choose a person (an "Agent") who will have the authority to make healthcare decisions for you if you are unconscious, mentally incompetent, or otherwise unable to make such decisions.
- In Nevada you can also communicate your wishes regarding whether you wish to receive "life-sustaining procedures" (to be kept alive) if you become permanently comatose or terminally ill, in the Healthcare Power of Attorney document. This will help your Agent to know your wishes as he or she makes decisions for you. Even if you do include this in the document, you should still discuss the Healthcare Power of Attorney with your Agent, expressing your wishes regarding what you want to happen to you regarding healthcare.

## WHAT is a Durable Power of Attorney?

- Durable means that the document will remain in effect or take effect if you become mentally incompetent. You can also sign a durable power of attorney document to prepare for the possibility that you may become mentally incompetent due to illness or an accident. In this case, you would specify that the power of attorney wouldn't go into effect unless a doctor certifies that you are mentally incapacitated.
- The power of attorney will remain in effect indefinitely or you can specify in it a date for it to end. You can also end it by completing a new Healthcare Power of Attorney or simply telling your Agent or doctor that you no longer wish it to be in effect.



## WHAT is the Difference Between a POA and a Living Will?

- A Healthcare Power of Attorney is different from a Living Will because it allows you to choose someone to make healthcare decisions for you. A Living Will only allows you to communicate your wishes concerning life-sustaining procedures.

## IS the POA an Advanced Health Care Directive?

- Both Living Wills and Healthcare Powers of Attorney are considered "Advance Healthcare Directives" because you're giving instructions on what you'd want to happen in the event that you become unable to make healthcare decisions in the future.
- Nevada also has a specific "Advance Healthcare Directive" document that combines elements of a Healthcare Power of Attorney and a Living Will. (For a more in-depth look at Advance Healthcare Directives, Healthcare Powers of Attorney and Living Wills, link to: <http://nvsos.gov/index.aspx?page=214>)

## DO I have to Choose a Lawyer to be My Agent?

- You don't have to choose a lawyer to be your Agent, but it is important to select someone you trust.

- The relative or friend you choose to be your Agent will be acting for you regarding your healthcare issues.
- You need to choose someone who won't abuse the powers you give them and will look out for your best interests.

## WHAT if the Person I Choose as Agent is Unable to Serve?

- There is always the possibility that the person or organization you choose as your Agent either won't be able to serve or will refuse to serve. That's why you have the option of choosing a Successor Agent (or second Agent) who can take over as Agent if necessary.
- Here is an example of why choosing a Successor Agent is a good idea: A young adult chooses a former teacher as their Agent. The teacher moves across the country to care for an aging parent and is no longer available to make decisions on behalf of the youth. If the youth had chosen a Successor Agent, that person is then able to make decisions if necessary.

## WHERE Do I Get the Document?

- Your caseworker will provide you with the POA document during your transition plan meeting.
- Your caseworker will provide you with the opportunity to execute the POA at age 18. You may also link to: [www.dcfs.state.nv.us](http://www.dcfs.state.nv.us) for the form.
- Certain Family Resource Centers may also be able to provide the form if they have provided Independent Living services to foster youth aging out of the system.

### SIGNING the Document

- A power of attorney must be signed by the person granting the authority; which is you (known as the "Principal").
- The Principal must be **a legal adult (age 18 or legally emancipated)** and mentally competent at the time of the signing in order to make the document legally binding.
- If there is any question about the Principal's mental competence, a physician may be asked to certify in writing that the person understands the document and the consequences of signing the document.
- The signature on a power of attorney can be "witnessed" by two adults or be notarized. Notarization makes it harder for someone to challenge the validity of the signature.

### WHAT HAPPENS to the document after I have signed it?

- Your caseworker will place a copy in your file and assist you in providing your "Agent" a copy; you will retain the original.

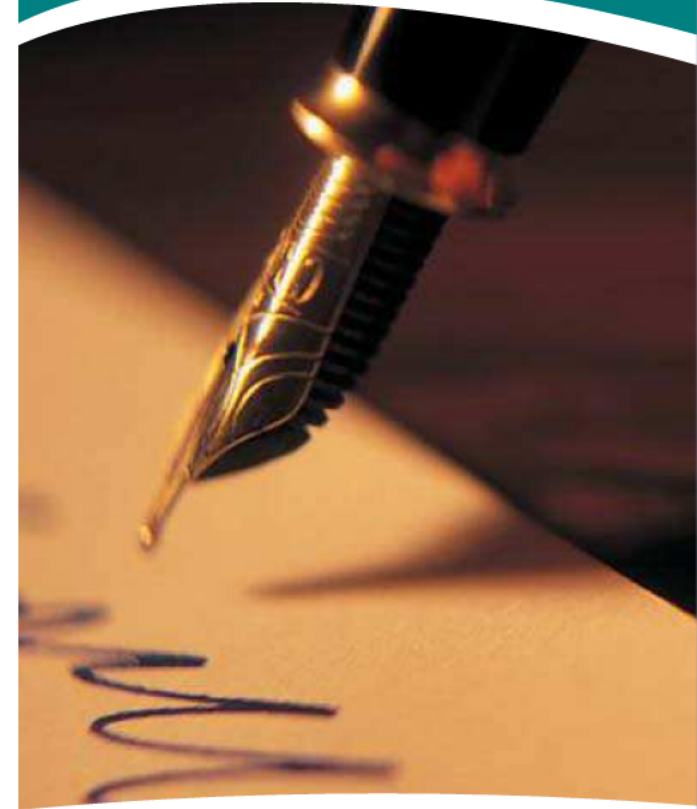


### FOR MORE INFORMATION CONNECT TO:

**State of Nevada**  
**Division of Child and**  
**Family Services**  
4126 Technology Way, 3rd Floor  
Carson City NV, 89706  
(775) 684-4400  
(775) 684-4455  
[www.dcss.state.nv.us/](http://www.dcss.state.nv.us/)



# HEALTHCARE POWER OF ATTORNEY



**An informational  
brochure for  
Nevada youth aging  
out of the foster  
care system**

The following meets the requirements of a "Durable Power of Attorney for Health Care Decisions" provided for under NRS 162A:

## **DURABLE POWER OF ATTORNEY FOR HEALTHCARE DECISIONS**

### **WARNING TO PERSON EXECUTING THIS DOCUMENT**

This is an important legal document. It creates a Durable Power of Attorney for Healthcare.  
Before executing this document, you should know these important facts:

1. This document gives the person you designate as your Agent the power to make health care decisions for you. This power is subject to any limitations or statement of your desires that you include in this document. The power to make health care decisions for you may include consent, refusal of consent, or withdrawal of consent to any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition. You may state in this document any types of treatment or placements that you do not desire.
2. The person you designate in this document has a duty to act consistent with your desires as stated in this document or otherwise made known or, if your desires are unknown, to act in your best interests.
3. Except as you otherwise specify in this document, the Power of the person you designate to make health care decisions for you may include the power to consent to your doctor not giving treatment or stopping treatment which would keep you alive.
4. Unless you specify a shorter period in this document, this Power will exist indefinitely from the date you execute this document and if you are unable to make health care decisions for yourself, this power will continue to exist until the time when you become able to make health care decisions for yourself.
5. Notwithstanding this document, you have the right to make medical and other health care decisions for yourself so long as you can give informed consent with respect to the particular decision. In addition, no treatment may be given to you over your objection, and health care necessary to keep you alive may not be stopped if you object.
6. You have the right to revoke the appointment of the person designated in this document to make health care decisions for you by notifying that person of the revocation orally or in writing.
7. You have the right to revoke the authority granted to the person designated in this document to make health care decisions for you by notifying the medical physician, hospital, or other provider of health care orally or in writing.
8. The person designated in this document to make health care decisions for you has the right to examine your medical records and to consent to their disclosure unless you limit this right in this document.
9. This document revokes any prior Durable Power of Attorney for Healthcare.
10. If there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

## 1. DESIGNATION OF HEALTHCARE AGENT

I, \_\_\_\_\_ (insert your name) do hereby designate and appoint:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

as my Agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your Agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

## 2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE

By this document, I intend to create a Durable Power of Attorney by appointing the person designated above to make health care decisions for me. This Power of Attorney shall not be affected by my subsequent incapacity.

## 3. GENERAL STATEMENT OF AUTHORITY GRANTED

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power, and authority: to make health care decisions for me before, or after my death, including consent, refusal of consent, or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

## 4. SPECIAL PROVISIONS AND LIMITATIONS

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization, or abortion. If there are any other types of treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place on your agent's authority, you should list them in the space below. If you do not want any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this Durable Power of Attorney for healthcare, the authority of my agent is subject to the following special provisions and limitations:

\_\_\_\_\_  
\_\_\_\_\_

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**5. DURATION**

I understand that this Power of Attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this Power of Attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this Power of Attorney end on the following date: \_\_\_\_\_

**6. STATEMENT OF DESIRES**

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interest. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures. \_\_\_\_\_

2. If I am in a coma which my doctors have reasonable concluded is irreversible, I desire that life sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed). \_\_\_\_\_

3. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, and sections 2 to 12, inclusive, if this subparagraph is initialed). \_\_\_\_\_

4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastro-intestinal tract after all other treatment is withheld \_\_\_\_\_

5. I do not desire treatment to be provided and/or continue if the burdens of the treatment outweigh the expected benefits. My agent is to consider relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. \_\_\_\_\_

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## 7. DESIGNATION OF ALTERNATE AGENT

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent.. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decision for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such person to serve in the order listed below:

### A. First Alternative Agent

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

### B. Second Alternative Agent

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

## 8. PRIOR DESIGNATIONS REVOKED

I revoke any prior Durable Power of Attorney for Healthcare:

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY.)

I sign my name to this Durable Power of Attorney for Healthcare on: \_\_\_\_\_  
(Date)

at \_\_\_\_\_, \_\_\_\_\_  
(City) (State)

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(Signature)

#### 9. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

#### 10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

#### 11. NOMINATION OF GUARDIAN

If, after execution of this Durable Power of Attorney for Health Care, incompetency proceedings are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

#### 12. RELEASE OF INFORMATION.

I agree to authorize and allow full release of information by any government agency, medical provider, business, creditor, or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

13. (THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE, OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

**CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC**

(You may use acknowledgement before a notary public instead of statement of witnesses.)

State of Nevada )

: ss:

County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_,

before me, \_\_\_\_\_ (here insert name of

notary public) personally appeared \_\_\_\_\_ (here

insert name of principal) personally known to me (or proved to me on the basis of satisfactory

evidence) to be the person whose name is subscribed to this instrument, and acknowledged that

he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to

this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL

\_\_\_\_\_  
(Signature of Notary Public)



### STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; (5) an employee of an operator of a healthcare facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty that the principal is personally known to me, that the principal signed or acknowledged the Durable Power of Attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as agent by this document, and that I am not a provider of health care, an employee of a provider of health care, the operator of a community care facility, nor an employee of an operator of health care facility.

Witness #1:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Witness #2:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage, or adoption, and to the best of my knowledge I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing by operation of law.

Witness #1:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Witness #2:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Residence Address: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

COPIES: You should retain an executed copy of this document and give one to your agent. The Power of Attorney should be available so a copy may be given to your providers of health care.