



### ***How Do I Choose My Health Care Agent?***

One of the most important decisions you will make in your advance care planning is choosing whom you want to make decisions for you if you cannot—your “Healthcare Agent.”

In Colorado you have the right to choose whomever you wish to be your Healthcare Agent. It is important to choose someone who:

- is willing and available (preferably not, for instance, living in another state),
- knows your values and life goals and your preferences for life-sustaining treatment,
- will honor and follow your wishes,
- is able to make difficult choices, usually under stress, and
- has the time and commitment to serve as your agent for however long is necessary.

Remember, your Healthcare Agent need not be your spouse or someone closely related to you. In fact, those closest to you might have the hardest time serving as your decision maker because their own feelings or values might get in the way. (If you pick your spouse and later divorce or legally separate, your spouse will be disqualified to serve.)

Your Healthcare Agent can be a family member or friend or even legal or religious advisor. It is also a good idea to choose an alternate Healthcare Agent, in case your first choice is unavailable, unwilling, or unable to serve when needed.

Your Healthcare Agent can be a professional – a geriatric care manager, private practice social worker, or attorney at law. Anyone serving as your agent can be paid a reasonable fee for their services.

You can decide whether you want the Healthcare Agent’s authority to begin right away or only after it has been determined that you cannot make your own choices. Note: This determination is usually made by a physician or other healthcare professional with special training. It can be very difficult to assess, especially as the “capacity” of a person who is seriously ill to make decisions can vary a great deal, even over the course of a single day. If you trust your Healthcare Agent (and you should!), an immediate power of attorney avoids having to go through this process. ***As long as you are able to make your own decisions, you are still in control!***

Above all, be sure to talk to the people you want as your Healthcare Agent and alternate before you officially appoint them. Make sure they understand your wishes and agree to serve. And give them each a copy of all your advance directives, especially the Medical Durable Power of Attorney.

If your choice for Healthcare Agent is not a family member, be sure your family members know about your choice and how to contact the Agent and alternate. If possible, it would be a good idea for you and your Healthcare Agent to talk with your primary doctor about the kinds of medical decisions that might be likely and the options available.

*Your Agent and your doctor should have a copy of the MDPOA form and any written advance directives you have completed.*

## **What's Involved in Being a Healthcare Agent?**

In Colorado, unlike many other states, when an adult is unable to make his or her own medical decisions, **no one has automatic authority to step in**. Healthcare providers may naturally turn to a spouse for medical decisions, but spouses have no more legal authority to make such decisions than do adult children, siblings, or even close friends.

To make any medical decision for any other adult in Colorado, you must be officially designated as that person's "Healthcare Agent" or selected as the decision maker through the "proxy process." Healthcare Agents are appointed through a document called a Medical Durable Power of Attorney (MDPOA), which is signed by one competent adult (the "principal") granting authority to another (the "Agent") to make medical decisions.

If you are appointed as a "Healthcare Agent," you agree to make medical decisions for someone else (the "principal") when that person cannot. Your responsibility might be temporary, for example, if the principal is severely ill or injured but then gets better; or it might be long term, if the principal has a permanent disability or chronic or terminal illness.

The Healthcare Agent has all the rights of the principal to talk to doctors and other healthcare professionals, to look at medical records, and to make treatment decisions. Typically, the Healthcare Agent does NOT have the power to handle the principal's financial affairs. Healthcare Agents may be paid for their service, and their powers end at the principal's death.

If you agree to be a Healthcare Agent,

- Your job is to make medical decisions in line with the principal's values, goals, and preferences.
- You must put aside your own values, goals, and preferences and speak for the principal. You should talk over in detail what the principal would wish for in a lot of different circumstances. (The Conversation Project Starter Kit, [www.theconversationproject.org](http://www.theconversationproject.org), and Caring Conversations, [www.practicalbioethics.org](http://www.practicalbioethics.org), booklets can help you ask the right questions and think about the kinds of choices that might be needed.)
- You must, as much as possible, continue to consult the principal about decisions and follow his or her expressed preferences.
- Be sure you understand whether your powers are immediate or only begin when the principal has lost the ability to make decisions. As noted above, when someone is seriously ill, their capacity to make decisions can vary a great deal, even over the course of a single day. An immediate grant of powers is helpful—but remember, you are only the decision maker when the principal cannot be! **As long as the principal can and wants to make their own decisions, they retain that right and power!**
- You must be willing to talk to many healthcare providers, especially doctors, and going with the principal to appointments in healthcare facilities or at the principal's home.
- You must learn everything you can about the person's condition, treatment options, prospects for recovery, and—if needed—end-of-life choices, such as when to withdraw or withhold certain treatments or when to arrange for palliative or hospice care.

Depending on the circumstances, the job of a Healthcare Agent can be very demanding, requiring a lot of time and commitment. If the principal is agreeable and able, you can be paid a reasonable amount for your time and services. But the job has many rewards, including the knowledge that you are safeguarding the desires and dignity of someone you know and care for.