

**POWER OF ATTORNEY FOR HEALTH CARE
FORM: SOME ISSUES FOR YOUR
CONSIDERATION**

1. General. Our form is not the statutory form. It combines elements of the power of attorney for health care, the living will, and the general durable power of attorney. It is intended to be one comprehensive document containing your advance plans regarding health care decision making.

2. Withholding and withdrawal of medical treatment, including nutrition and hydration. Under Wisconsin statutes, if you are incapacitated, your health care agent may consent to the withholding or withdrawal of health care, including feeding tubes, if your form so indicates and certain other conditions are met. For purposes of the statute, *incapacity* means “the inability to receive and evaluate information effectively or to communicate decisions to such an extent that the individual lacks the capacity to manage his or her health care decisions.” Our form gives your agent this broad authority.

Under “Provisions of a Feeding Tube” of our form specifically addresses the issue of withholding and withdrawing health care. This Section sets forth a mandatory standard. If you are incapacitated and have a terminal and incurable condition or if you have a permanent loss of consciousness, you direct that medical treatment, including all procedures used to provide nutrition and hydration, be withheld. Please let us know if this is not what you wish so that the form can be modified for you.

This Section sets forth a broad discretionary standard for your agent. If you do not have a terminal and incurable condition or a permanent loss of consciousness but are merely incapacitated, you give your agent the discretion to withhold medical treatment, including nutrition and hydration. This Section is nonspecific because of the open-ended nature of the power. However, if you would like to give specific instructions in “Statement of Desires, Special Provisions, Limitations” section, please let us know.

3. Unusual psychiatric services. Under Wisconsin statutes, a health care agent may not consent to experimental mental health research or to psychosurgery, electroconvulsive treatment, or drastic mental health treatment procedures for the principal. However, you may have broader rights to delegate authority in this area than the statute allows. If this is a special issue for you, it should be addressed specifically in your form.

4. Placement in a nursing home or community-based residential facility (CBRF). Wisconsin statutes allow you to give a limited authority to your agent to admit you to a nursing home or CBRF. Our form gives your agent this authority to the full extent of the statutes.

5. Pregnancy. A power of attorney for health care can be effective during pregnancy. However, if it is to be so, specific language regarding pregnancy should appear in the instrument. If this is an issue for you, please let us know.

6. Anatomical gifts. Our form delegates authority to make anatomical gifts on the last page. This delegation should be effective for gifts during life--for example, for a kidney donation. However, this delegation will be effective for anatomical gifts at death only under certain circumstances. If you are interested in making anatomical gifts of all or parts of your body at death, we recommend that you execute the last page of this instrument documenting your gift or let us know so that specific language about your gift can be included in this form. Wisconsin’s anatomical gift statute indicates that documentation of your gift can be accomplished in one of several ways--for example, by including

language in a power of attorney for health care document such as our form, by completing the anatomical gift statement on your driver's license or Department of Transportation identification card, by making a bequest in your will, or by executing a separate written document. If you have questions about this, please let us know.

If you are not interested in making anatomical gifts either during life or at death, please let us know so that the last page maybe crossed out and language about your refusal can be inserted in this form if you desire. In addition, we recommend that you make a written record of your refusal to make anatomical gifts at death, because under Wisconsin's anatomical gift statute, certain relatives, your guardian, or your health care agent may have the authority to make anatomical gifts unless you have specified your refusal. Methods of documenting your refusal may be made by methods which are similar to those used to document a gift. If you have questions about this, please let us know.

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