Knox McLaughlin Gornall & Sennett, P.C.
Erie • Pittsburgh • Jamestown, NY
814-459-2800 • www.kmgslaw.com

How Does a Medical Power of Attorney Work?

Posted on February 02, 2026

Medical Powers of Attorney (often referred to as healthcare powers of attorney, or Advance Directives) are essential to a comprehensive estate and/or elder law plan. A properly executed Medical Power of Attorney allows an individual to communicate their healthcare preferences ahead of any incapacitation, thus providing clarity and reducing potential family confusion and stress.

What Is a Medical Power of Attorney (POA)?

A medical healthcare power of attorney, or healthcare power of attorney, is part of every estate plan we provide to clients. It is a legal document that specifies your future medical care preferences and designates a person (agent) to make decisions on your behalf if you become unable to communicate those wishes due to serious illness or injury.

Medical powers of attorney typically include a living will, which specifies the types of medical treatments you do or do not want, such as resuscitation, mechanical ventilation, feeding tubes, or palliative care. They also include a durable power of attorney for healthcare, which appoints a trusted individual as an agent or healthcare proxy. This agent is able to make medical decisions on your behalf if you are unable to do so.

Care should be taken in selecting an agent, as they will have legal authorization to make all healthcare decisions on your behalf. Often, a spouse or other close family member is selected, as they typically know you and your wishes.

Why Is a Medical Power of Attorney Important?

A medical power of attorney is important for people of any age, not just the elderly or seriously ill. Life is unpredictable, and it is advisable for every adult to have documents in place to protect their preferences.

A medical power of attorney offers:

- **Control Over Your Care**: Make decisions now about treatments you would or would not want.
- **Relief For Loved Ones**: Prevents family members from having to make difficult choices during emotional times.
- **Legal Clarity**: Reduces the risk of disputes or confusion among caregivers and medical professionals.
- **Integration With Estate Planning**: Aligns with your broader goals for asset protection, elder law considerations, and legacy planning.

How a Medical Power of Attorney Works

In Pennsylvania, medical powers of attorney are governed by the Pennsylvania Advance Directive for Health Care Act. When properly executed, a medical power of attorney becomes effective only if and when your treating physician determines that you lack the capacity to make or communicate healthcare decisions.

As long as you are able to understand and communicate your medical choices, you remain in full control of your healthcare decisions. Your appointed agent has no authority while you are capable of making decisions for yourself. Once incapacity is determined, your agent steps in to communicate with healthcare providers and make decisions consistent with your stated wishes and best interests.

For a medical power of attorney to be valid in Pennsylvania, it must:

- Be signed by the principal (the person creating the document)
- Be witnessed by two adults, neither of whom is the healthcare agent

Notarization is not required, but proper execution is critical to ensure the document is accepted by hospitals and healthcare providers.

Roles and Responsibilities of the Medical POA

Your healthcare agent has the legal authority to:

- Speak with doctors and medical staff on your behalf
- Access medical records protected by HIPAA
- Consent to or refuse medical treatment
- Make decisions about life?sustaining treatment, consistent with your living will
- Choose healthcare facilities or providers

Pennsylvania law requires the agent to follow your written instructions and, when those instructions do not address a specific situation, to act in accordance with your known values and preferences.

Who Can Be a Medical Power of Attorney Agent?

In Pennsylvania, a medical power of attorney agent must be a competent adult (18 years or older) who is willing and able to make healthcare decisions on your behalf. The most important qualification is trust, as this person will have significant authority over your medical care if you are unable to speak for yourself.

Many people choose:

- A spouse or domestic partner
- An adult child
- A close family member
- A trusted friend

The best choice is someone who knows your values, understands your wishes, and is comfortable advocating for you, even in emotionally difficult situations.

Who Should Not Be an Agent?

Pennsylvania law places some limitations on avoiding conflicts of interest. Generally, your healthcare provider or an employee of your healthcare provider should not serve as your agent, unless that person is also a close family member. This helps ensure medical decisions are made solely in your best interest.

How to Choose the Right Medical Power of Attorney Agent

Because this role carries significant responsibility, careful selection and proper legal guidance are essential. When selecting a medical power of attorney agent, consider someone who:

- Can remain calm and make decisions under pressure

- Is willing to follow your wishes, even if others disagree
- Communicates well with doctors and family members
- Is likely to be available when needed

Choosing the “right” person is often more important than choosing the “closest” person. Once you have chosen an agent, be sure to communicate openly with them about your wishes and plans. An honest conversation can help your agent understand not just what decisions you want made, but why.

Naming Backup (Successor) Agents

It is strongly recommended to name one or more successor agents. A successor agent can step in if your primary agent is unavailable, unwilling, or unable to serve. This added layer of protection helps ensure your healthcare decisions are never left in limbo.

How Do I File or Execute a Medical Power of Attorney?

While Pennsylvania provides statutory guidance, there is no single mandatory state form for a medical power of attorney. Many people use attorney?drafted documents to ensure their wishes are clearly stated and legally enforceable. Knox Law’s estate planning team includes advance directives in all estate plans for our clients, including a medical (or healthcare) power of attorney, living will, and (financial) power of attorney.

A properly drafted Pennsylvania advance directive generally includes:

- Appointment of a healthcare agent
- Scope of the agent’s authority
- Living will instructions (life?sustaining treatment, end?of?life care, organ donation, etc.)
- HIPAA authorization allowing the agent to access medical records

Medical Power of Attorney Requirements in Pennsylvania

To be valid in Pennsylvania, a medical power of attorney must:

- Be signed by the principal (the person creating the document), or by another individual at the principal’s direction if the principal is unable to sign
- Be witnessed by two adult witnesses
- Notarization is not required under Pennsylvania law, though some people choose to notarize the document for added formality.

Witness Requirements

- Witnesses must be at least 18 years old
- At least one witness cannot be related by blood, marriage, or adoption
- The healthcare agent should not serve as a witness

Post Execution

After execution, the original document should be kept in a safe but accessible location. Copies should be provided to:

- Your healthcare agent and successor agents
- Your primary care physician
- Hospitals or healthcare systems where you receive care
- Family members involved in your care

How to Revoke or Change Your Medical Power of Attorney

You may revoke or update your medical power of attorney at any time, as long as you have capacity. Life changes, such as marriage, divorce, relocation, or significant changes in health, are common reasons to review and update these documents.

Medical Power of Attorney vs. Living Will

In Pennsylvania, a medical power of attorney often works together with a living will. The living will provides written instructions about end?of?life care, while the healthcare agent handles real?time decision?making. If there is ever a conflict between the agent's decision and your living will, your written wishes prevail.

What Happens if You Don't Have a Medical Power of Attorney?

If a person becomes incapacitated in Pennsylvania without a medical power of attorney or advance directive, they lose control over who makes healthcare decisions for them. Instead, doctors must rely on Pennsylvania's default decision?making rules, which prioritize certain family members, such as a spouse or adult children. This process can become complicated if multiple family members disagree or if the appropriate decision?maker is unclear.

Without written instructions, healthcare providers may have little guidance about the individual's wishes and may default to aggressive or life?sustaining treatment. In some cases, disagreements or a lack of authority can delay care. If no suitable decision?maker can be identified, court involvement may be required, potentially resulting in a guardianship proceeding that is time?consuming, costly, and stressful for loved ones.

Learn More From a Trusted Estate Planning Attorney

A medical, or healthcare, power of attorney is a crucial piece of your complete estate plan, along with a Will, a power of attorney, a living will, and other relevant documents such as trusts. While the execution process is simple, mistakes in drafting or witnessing can render a medical power of attorney ineffective when it is needed most. Working with an experienced Pennsylvania estate planning or elder law attorney helps ensure:

- Proper execution
- Clear authority for your agent
- Reduced risk of disputes or delays in care

Contact us today to learn more about how we can help you plan for your future with peace of mind.

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