

# ELDER HEALTH & LIFESTYLE BULLETIN

As you will recall, last year there was a lot of controversy in the national news surrounding Terri Schiavo of Florida and who had the authority to make medical decisions on her behalf. There have been many other such cases in recent years; however, none have had such a high profile as the Schiavo case.

Generally, conflicts arise because children, siblings, and other family members disagree about the medical care to be provided to a loved family member. We hear the horror stories when an elder person, incapacitated to make their own health care decisions, does not have a clearly identified person designated to make the medical decisions.



Because the potential for conflict can arise over almost any medical care issue, most all medical professionals are encouraging people to execute a Durable Power Of Attorney for Health Care.

It is our concern that many families may not have addressed this issue. We encourage you and your loved one to seek the guidance of an attorney to develop and execute a

Durable Power Of Attorney for Health Care. Should you choose not to seek an attorney, you may use the enclosed standardized Durable Power Of Attorney for Health Care.

If you intend to use the enclosed document, please understand the following particulars:

- If you have executed an Advance Directive, make certain to designate the same person as your Durable Power Of Attorney for Health Care. Having two separate agents can create conflict in the decision making process.
- Designate only one person as your agent under a Durable Power Of Attorney for Health Care. Designating more than one person can create conflict.
- The document enables designating an agent, a successor agent and second successor agent. While we encourage you to use a second successor agent, it is not essential. If you choose not to establish a second successor agent, then just leave it blank.
- Your family member must be of sound mind, under no duress, fraud, or undue influence at the time of executing a Durable Power Of Attorney for Health Care.

Your family member must sign and date the document in the presence of a Notary Public and have the document notarized. Your family member's signature should be witnessed by two persons and the witnesses must sign in the appropriate place.

- The agent, successor agent and second successor agent, if applicable, must sign the document at the bottom accepting the designation as such. The agents' signatures do not need witnessing nor notarization.
- An original document should be provided to the agent, successor agent and second successor agent, if applicable. Copies should be provided to all attending physicians and to the hospital upon the next admission.

## Communication: Are Your Wishes Known?

Death and disease are not subjects anyone likes to talk about, but at some point they have to be discussed. **If something were to happen to you, would your family know what to do?**

With end of life issues, communicating your wishes is essential. An advance health care directive is the first step in this process. But, you also need to discuss your preferences with others. Take the time to discuss these issues with the person you appoint as your health care agent. Talk to your physician. Make sure your family knows how you feel about end of life issues. The more these individuals know, the easier it will be for them to fulfill your wishes.

Use the quiz on the inside to make sure you have communicated your wishes clearly and that your chosen health care POA understands.



## Look Inside For...

- ◆ Quiz on How You Are Communicating with Others
- ◆ Durable Power of Attorney - Healthcare Form
- ◆ What's the Difference? Living Wills vs. POA Healthcare

# How Well Are You Communicating?

## Personal Medical Preferences Test



**Step 1:** Answer the 10 questions using the Personal Medical Preferences test.

**Step 2:** Then, ask your Power-of-Attorney for Health Care, family member, or close friend to complete the Understanding of Your Personal Medical Preferences test. The questions are the same. Don't reveal your answers until after they take the test. They should answer the questions in the way they think you would answer.

**Step 3:** Grading - Count one point for each question on which you and your Power-of-Attorney for Health Care (or you and your doctor) gave the same answer. Their agent score is rated as follows:

Points	Grade
10	Superior - you are doing a great job communicating!
8-9	Good - need some fine tuning!
6-7	Fair - more discussion needed.
5 or below	Poor - you have a lot of talking to do!

**Complete this questionnaire by yourself.**

1. Imagine that you had Alzheimer's disease and it had progressed to the point where you could not recognize or converse with your loved ones. When spoon-feeding was no longer possible, would you want to be fed by a tube into your stomach?
  - a. Yes
  - b. No
  - c. I am uncertain.
2. Which of the following do you fear most near the end of life?
  - a. Being in pain
  - b. Losing the ability to think
  - c. Being a financial burden on loved ones
3. Imagine that...You are now seriously ill, and doctors are recommending chemotherapy, and this chemotherapy usually has very severe side effects such as pain, nausea, vomiting, and weakness that could last for 2-3 months. Would you be willing to endure the side effects if the chance of regaining your current health was less than 1 percent?
  - a. Yes
  - b. No
  - c. I am uncertain
4. In the same scenario, suppose that your condition is clearly terminal, but the chemotherapy might give you 6 additional months of life. Would you want the chemotherapy even though it has severe side effects (frequent pain, nausea, vomiting, and weakness)?
  - a. Yes
  - b. No
  - c. I am uncertain
5. If you were terminally ill with a condition that caused much pain, would you want to be sedated, even to the point of unconsciousness, if it were necessary to control your pain?
  - a. Yes
  - b. No
  - c. I am uncertain
6. Imagine that...You have moderate dementia causing mental confusion. About half the time, you recognize and interact with friends and loved ones on a simple level. You also have circulatory problems, which resulted in one leg being amputated because it developed gangrene. Now, the other leg develops gangrene and the doctor recommends amputation because the condition could be fatal. Would you want the operation?
  - a. Yes
  - b. No
  - c. I am uncertain
7. Is it more important for you to: (a) have your specific treatment preferences followed at the end of life even if family members or friends disagree, or (b) have family and friends all in agreement and comfortable with whatever decision is made?
  - a. Have specific preferences followed, even if there is disagreement
  - b. Have family and friends all in agreement
  - c. I am uncertain
8. Imagine that...You are physically frail and you need help with most routine daily activities - dressing, bathing, eating and going to the toilet. You live in a nursing home. Your mind is fairly clear and capable most of the time. You have had pneumonia or other lung infections four times in the last year. Each time you had to be hospitalized for several days and given antibiotics through an I-V tube. The next time you get pneumonia, do you want aggressive antibiotic treatment again or just comfort care until death comes?
  - a. Antibiotic treatment
  - b. Comfort care only
  - c. I am uncertain
9. Imagine that...You are in a permanent coma. You are dependent on a tube inserted into your stomach for nutrition and hydration, for food and water. Would it be important to you that decisions about your treatment be guided by particular religious beliefs or spiritual values that you hold?
  - a. Yes
  - b. No
  - c. I am uncertain
10. If your heart, kidneys, pancreas, lungs and liver could all be used in transplant operations to save lives, would you want to donate them at death?
  - a. Yes
  - b. No
  - c. I am uncertain

# **Do You Know Your Loved Ones Wishes?**

## **Understanding of Your Personal Medical Preferences Test**

*This part is to be completed by your named Power-of-Attorney for Health Care, family member, close friend or physician. Answer the following questions in the way you think your loved one would answer.*



1. Imagine that your loved one had Alzheimer's disease and it had progressed to the point where he/she could not recognize or converse with your loved ones. When spoon-feeding was no longer possible, would he/she want to be fed by the insertion of a tube in the stomach?  
a. Yes                                      b. No                                      c. He/She would be uncertain
2. Which of the following do you think your loved one fears most near the end of life?  
a. Being in pain                              b. Losing the ability to think  
c. Being a financial burden on loved ones
3. Imagine that your loved one ...is now seriously ill, and doctors are recommending chemotherapy, and this chemotherapy usually has very severe side effects such as pain, nausea, vomiting, and weakness that could last for 2-3 months. Would your loved one be willing to endure the side effects if the chance of regaining his/her current health was less than 1 percent?  
a. Yes                                      b. No                                      c. He/She would be uncertain
4. In the same scenario, suppose that his/her condition is clearly terminal, but the chemotherapy might give 6 additional months of life. Would your loved one want the chemotherapy even though it has severe side effects (frequent pain, nausea, vomiting, and weakness)?  
a. Yes                                      b. No                                      c. He/She would be uncertain
5. If your loved one were terminally ill with a condition that caused much pain, would your loved one want to be sedated, even to the point of unconsciousness, if it were necessary to control your pain?  
a. Yes                                      b. No                                      c. He/She would be uncertain
6. Imagine that...your loved one has moderate dementia causing mental confusion. About half the time, your loved one recognizes and interacts with friends and loved ones on a simple level. Your loved one also has circulatory problems, which resulted in one leg being amputated because it developed gangrene. Now, the other leg develops gangrene and the doctor recommends amputation because the condition could be fatal. Would your loved one want the operation?  
a. Yes                                      b. No                                      c. He/She would be uncertain
7. Is it more important for your loved one to: (a) have his/her specific treatment preferences followed at the end of life even if family members or friends disagree, or (b) have family and friends all in agreement and comfortable with whatever decision is made?  
a. Have specific preferences followed, even if there is disagreement  
b. Have family and friends all in agreement  
c. He/She would be uncertain
8. Imagine that...your loved one is physically frail and needs help with most routine daily activities - dressing, bathing, eating and going to the toilet. He/she lives in a nursing home. Mentally, he/she is fairly clear and capable most of the time. He/she has had pneumonia or other lung infections four times in the last year. Each time your loved one has to be hospitalized for several days and given antibiotics through an I-V tube. The next time your loved one gets pneumonia, does your loved one want aggressive antibiotic treatment again or just comfort care until death comes?  
a. Antibiotic treatment      b. Comfort care only                                      c. He/She would be uncertain
9. Imagine that...your loved one is in a permanent coma and is dependent on a tube inserted into the stomach for nutrition and hydration, for food and water. Would it be important to your loved one that decisions about treatment be guided by particular religious beliefs or spiritual values that your loved one holds?  
a. Yes                                      b. No                                      c. He/She would be uncertain
10. If your loved one's heart, kidneys, pancreas, lungs and liver could all be used in transplant operations to save lives, would he/she want to donate them at death?  
a. Yes                                      b. No                                      c. He/She would be uncertain

## DURABLE POWER OF ATTORNEY FOR HEALTH CARE

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

- I. **Designation Of Health Care Agents:** I, \_\_\_\_\_, appoint as my attorney in fact (or "Agent") for health and personal care decisions if I become unable to make such decisions for myself:
- II. **Successor Agent:** If my Agent dies, becomes unable or refuses to act, resigns, or becomes unavailable, I name the following to act as successor to the Agent named above: \_\_\_\_\_. If the reason the successor acts for me is unavailability of my Agent named in the first paragraph of this document, then I intend that the successor act for me only when my first named Agent is unavailable.
- III. **Second Successor Agent:** If my successor agent dies, becomes unable or refuses to act, resigns, or becomes unavailable, I name the following to act as second successor to the Agent named above: \_\_\_\_\_. If the reason the successor acts for me is unavailability of either of my Agents named above, then I intend that the successor act for me only when neither Agent nor Successor Agent is available.
- IV. **Effective Date: Duration:** This power of attorney shall operate if I become incapacitated to make my own decisions about my health care, and shall continue to operate as long as I am incapacitated to make whatever decisions related to my health care are under consideration. Incapacity shall be determined by agreement between my attending physician and my Agent. If my physician believes I retain capacity but my Agent disagrees, then my Agent may choose a consulting physician to examine me. I direct my attending physician to allow any such examination and to talk with the consulting physician. The consulting physician's judgment as to my capacity shall be determinative. This power of attorney shall remain effective as long as I am legally alive, or until I revoke it in writing, and the authority conferred here in shall not be affected by my disability, incompetency or incapacity.
- V. **Agent's Powers:** I grant my Agent full authority to make decisions for me regarding my health care. I intend that my Agent have, and be able to exercise, the broadest powers for health care decision making that I myself have by law, including, but not limited to, the following:
1. To consent, refuse, or withdraw consent to any and all types of medical care, treatment, surgical procedures, diagnostic procedures, medication, and the use of mechanical or other procedures that affect any bodily function, including (but not limited to) artificial respiration, nutritional support and hydration, and cardiopulmonary resuscitation;
  2. To have access to medical records and information to the same extent that I am entitled to, including the right to disclose the contents to others;
  3. To authorize my admission to or discharge from any hospital, nursing home, residential care, assisted living or similar facility or service;
  4. To contract on my behalf for any health care related service or facility, without my Agent incurring personal financial liability for such contracts;
  5. To employ and discharge medical, social service, and other support personnel responsible for my care;
  6. To authorize, or refuse to authorize, any medication or procedure intended to relieve pain;
  7. To make anatomical gifts of any or all of my body organs for medical purposes;
  8. To authorize an autopsy;
  9. To take any other action necessary to do what I authorize here, including (but not limited to) granting any waiver or release from liability required by any hospital, physician, or other health care provider, signing any documents relating to refusals of treatment or the leaving of a facility against medical advice, and pursuing any legal action in my name, and at the expense of my estate to force compliance with my wishes as determined by my Agent, or to seek actual or punitive damages for the failure to comply;
  10. Withdrawing consent to intervention already in use, whether started with my or my agent's consent (for example, treatment started in emergency circumstances if I was incapacitated, my agent was not available to consent, and neither my agent, nor I when able to make my own decisions, had previously refused consent to the particular treatment); and
  11. My attorney in fact under this instrument is hereby designated as my "Personal Representative" as defined by 45 CFR 164.502, otherwise known as the Health Insurance Portability and Accountability Act of 1996, as amended, or HIPAA. This "Personal Representative" may view my medical records, execute releases of confidential information from medical providers and insurers or other third parties, and shall be considered my "personal representative" for health care disclosure under HIPAA. This authorization and consent to disclosure shall apply whether or not I continue to have the capacity to give informed consent, and is effective immediately. I further consent to and direct covered entities to provide my protected health information to my "personal representative" at any time upon his or her request.
- VI. **Protection Of Third Parties:** No person who relies in good faith upon representation by my Agent shall be liable to me, my estate, my heirs or assigns, for acting upon the Agent's authority.

VII. **Guardianship:** If Guardianship proceedings are instituted for any reason, I nominate my Agent to be guardian and I consent to such appointment. If my Agent is unwilling or unable to serve, I hereby appoint my Successor Agent as Guardian and I consent to such appointment. If my Agent and Successor Agent are both unwilling or unable to serve, I hereby appoint my Second Successor Agent as Guardian and I consent to such appointment. I oppose appointment of anyone other than one of these three people, unless at the time of guardianship proceedings none of them are willing or able to serve. If someone other than my Agent or Successor Agent or Second Successor Agent is appointed guardian, I ask that the court in the order appointing guardian require the guardian to act in accord with my wishes as stated in this document.

VIII. **Administrative Provisions:** I hereby revoke any prior power of attorney for health care. This power of attorney is intended to be valid in any jurisdiction in which it is presented. My Agent shall not be entitled to compensation for services performed under the power of attorney, but shall be entitled to reimbursement for all reasonable expenses incurred as a result of carrying out any provision of this power of attorney. The powers delegated under this power of attorney are separable, so that the invalidity of one or more powers shall not affect any others.

**BY SIGNING HERE I INDICATE THAT I UNDERSTAND THE CONTENTS OF THIS DOCUMENT AND THE EFFECT OF THIS GRANT OF POWERS TO MY AGENT.**

I sign my name to this Health Care Power of Attorney on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Resident Name

**Witness Statement:** I declare that \_\_\_\_\_ is personally known to me, that he/she signed or acknowledged this durable power of attorney in my presence, and that he/she appears to be of sound mind and under no duress, fraud, or undue influence. I am not appointed as Agent or Successor Agent or Second Successor Agent by this document, nor am I the patient's health care provider, or an employee of the patient's health care provider. I further declare that I am not related to the principal by blood, marriage, or adoption, and to the best of my knowledge, I am not a creditor of the principal nor entitled to any part of his estate under a Will now existing or by operation of law.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

**STATE OF ALABAMA**

**COUNTY OF \_\_\_\_\_**

On this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the said \_\_\_\_\_, known to me to be the person named in the foregoing instrument, personally appeared before me, a Notary Public in said County and State, and acknowledged that he/she executed the same freely and voluntarily for the purposes stated therein.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

I, \_\_\_\_\_, accept the designation as Agent.

\_\_\_\_\_  
Agent

\_\_\_\_\_  
Date

I, \_\_\_\_\_, accept the designation as Successor Agent.

\_\_\_\_\_  
Successor Agent

\_\_\_\_\_  
Date

I, \_\_\_\_\_, accept the designation as Second Successor Agent.

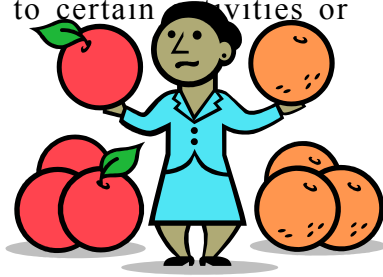
\_\_\_\_\_  
Second Successor Agent

\_\_\_\_\_  
Date

## What's The Difference?

### Durable Power of Attorney - Financial

- Designates an agent to manage all business and financial affairs in the event of incapacity
- Can be limited to certain activities or



### Durable Power of Attorney - Health Care

- Appoints a person to make medical decisions for you in the event of incapacity
- More flexible than a living will
- Lets you give specific instructions about any treatment that you want done or want to avoid

## Living Wills vs. Durable Power-of-Attorney for Health Care

### Living Wills

A living will is your written expression of how you want to be treated in certain medical conditions. Depending on state law, this document may permit you to express whether or not you wish to be given life-sustaining treatments in the event you are terminally ill or injured, to decide in advance whether you wish to be provided food and water via intravenous devices, and to give other medical directions that impact the end of life.

A living will applies in situations where the decision to use such treatments may prolong your life for a limited period of time and not obtaining such treatment would result in your death. It does not mean that medical professionals would deny you pain medications and other treatments that would relieve pain or otherwise make you more comfortable. Living wills do not determine your medical treatment in situations that do not affect your



continued life, such as routine medical treatment and non life-threatening medical conditions. In all states, the determination as to whether or not you are in such a medical condition is determined by medical professionals, usually your attending physician and at least one other medical doctor who has examined you and/or reviewed your medical situation. Most states permit you to include other medical directions that you wish your physicians to be aware of regarding the types of treatment you do or do not wish to receive.

### Durable Power-of-Attorney for Health Care

Sometimes called a “health care proxy” or “health care surrogate,” this document appoints a person to whom you grant authority to make medical decisions in the event you are unable to express your preferences. Most commonly, this situation occurs either because you are unconscious or because your mental state is such that you do not have the legal capacity to make your own decisions. Normally, a single individual is appointed as your health care proxy, though quite commonly one or more alternate persons are designated in the event your first choice proxy is unavailable. As with the living will, medical professionals will make the initial determination as to whether or not you have the capacity to make your own medical treatment decisions.

