

ISSUE #10
July 2007



MATSUMURA LAW FIRM

Wills, Trusts, Probate
And Estate Planning

Make your Health Care Preferences Known to your Family and Friends

Michele Matsumura,
Attorney, LL.M. (tax)

5820 Stoneridge Mall
Road, Suite 100
Pleasanton, CA 94588

Tel | 925.218.8984
Fax | 925.218.2372

Satellite Office:
4115 Blackhawk Plaza Circle
Suite 100
Danville, California

Durable Power of Attorney for Health Care:

Ensure Your Ability to Participate in Your Own Health Care
Decisions Even if You Are Seriously Ill or Unconscious

An “Advance Health Care Directive” lets your physicians, family and friends know your health care preferences, including the types of special treatment you want or do not want at the end of life. By considering your options early, you can provide guidance for your family so that they do not have to

agents cannot act for you, your Durable Power of Attorney for Health Care will still provide guidance for your physicians as to the type of care you prefer.

Definitions. When you complete your Durable Power of Attorney, it is important to familiarize yourself with some terms:

- **Principal.** If you are completing the Durable Power of Attorney, you are considered the principal.
- **Agent.** An Agent is the person appointed by you, as principal, to make decisions about your medical care if you cannot make them yourself.
- **Capacity.** The ability to understand and appreciate the nature and consequences of health care decisions and to make an informed decision. The term “competent” is also used to indicate ability to make informed decisions.
- **Do-Not-Resuscitate Order (DNR).** A physician’s written order instructing healthcare providers not to attempt cardiopulmonary resuscitation (CPR) in case of cardiac or respiratory arrest.
- **Life-Sustaining Treatment.** Medical procedures that replace or support an essential bodily function, i.e. life support. For example, CPR, mechanical ventilation, artificial nutrition and hydration, dialysis are life-sustaining treatments.

(continued on reverse)

guess about your wishes or undergo conflict or stress amongst themselves in making these choices for you.

Living Will v. Durable Power of Attorney for Health Care. There are two types of advance directives: a Living Will and a Durable Power of Attorney. *A Living Will is a written document that states your wishes* about what type of medical treatment you want to receive if and when there is a time that you are unable to communicate yourself. *A Durable Power of Attorney for Health Care Decisions appoints an agent to make decisions* about your medical care if you cannot make those decisions for yourself. You inform your agent about your medical treatment preference, so if you have a Durable Power of Attorney for Health Care Decisions, it is not necessary to also prepare a Living Will. Your Durable Power of Attorney for Health Care will designate one agent with at least one or two “back-up” agents. In the unlikely event that all of your

MATSUMURA LAW FIRM

Wills, Trusts, Probate
And Estate Planning



Michele Matsumura,
Attorney, LL.M. (tax)

5820 Stoneridge Mall
Road, Suite 100
Pleasanton, CA 94588

Tel | 925.218.8984
Fax | 925.218.2372

Durable Power of Attorney for Health Care (cont'd)

Why Should You Appoint A Health Care Agent?

When you appoint a health care agent, you designate a person to be an advocate for your care. Because you cannot foresee all possible future medical issues, you need an agent who is familiar with you and your preferences. If needed, your agent can talk with your doctors, ask questions, and weigh the benefits and burdens of treatments, and make decisions for you based upon his or her familiarity with your wishes.

If you do not have a health care agent, you do not have this advo-

your doctors to gather the information that he or she will need to make decisions. A spouse or child is usually the first individual considered as an agent. However, if the spouse or child cannot be assertive and carry out your wishes, another agent should be considered. Not everyone will make a good agent.

You should notify the person whom you are designating as agent to be sure that he or she is willing to serve. At the same time, you may wish to communicate your wishes to your agent and be sure that he or she would be able to carry out your intent.

Advance Health Care Directives include a Living Will Provision and a Durable Power of Attorney

cate on your side, and you risk the possibility that your medical treatment not consider your wishes.

Who Should Be Your Agent?

Your agent can be any adult (i.e., person over age 18) that you trust, who knows you well, and will honor your wishes. Your agent cannot be your attending physician or an employee of your medical facility (unless related to you).

Your agent should be someone who will be able to think clearly under emotional stress. When your agent is called upon to act, it will be a difficult time. Your agent should be someone who is not afraid to ask questions from



What if You Do Not Have Anyone To Appoint As Agent?

If you have no one to appoint as agent, it is especially important that you complete a Living Will to make your wishes known. The Living Will specifies your medical preferences without naming agents to make medical decisions for you.

How To Designate Your Agent — Advance Health Care Directives.

As part of my basic estate plan, clients complete a California Medical Association (CMA) Advance Health Care Directive which is a combined Living Will and Durable Power of Attorney. This document appoints your agent, as well as alternate agents. ★

About Me

I graduated cum laude from the University of the Pacific in Stockton, California with a Bachelor's in Science (B.S.) degree in Business Administration. I received my law degree (J.D.) from King Hall School of Law at U.C. Davis, and was admitted to the California State Bar in 1993. I completed my Masters in Taxation (LL.M.) at Golden Gate University in San Francisco in 1998.

I have practiced exclusively in the area of estate planning, probate and trust administration for approximately nine years.

I live in Pleasanton and I enjoy supporting the San Francisco Giants and University of California Athletics (GO BEARS!).

HAPPY FOURTH OF JULY!!

Next Issue: Advance Health Care Directives (Part II)