

A Medical Power of Attorney

By Joseph Kimble and Jonathan Brignall

In 2018, WMU–Cooley Law School created the Kimble Center for Legal Drafting. The Center has a public-service mission: produce high-quality, user-friendly documents and make them available on its website, and occasionally offer free writing and drafting seminars for lawyers, paralegals, and law students. We held a seminar last fall and had a packed house. And now...

The Center has released its first public document—a medical power of attorney. A few sample pages follow. Because of space limitations, we had to leave out parts of Section A (including parts about backup agents, treatment for mental-health care, organ donation, when the agent can act, and other legal points); Section B (“Statement and signature by witnesses”); and Section C (“Acceptance by agents”). There are 12 pages total, but with lots of white space, as you’ll see.

The full form is available for download on the Center’s website. (Google the Center’s name.) It has been 18 months in the making. More than 50 drafts. It was reviewed by experienced elder-law attorneys, doctors, and the Center’s international board of advisers, whose members are experts in plain language, forms and website design, and user testing. It was professionally designed by Gusto Design in New Zealand. And we

are pleased to have received the WriteMark Plain-Language Standard from Write Limited, also based in New Zealand.

The most challenging part to draft, of course, was Part 4 on page 5, “Specific instructions for life-support treatment.” We looked at a number of ways to handle this and eventually adapted an older form prepared by the State Bar of Michigan and three medical organizations. We stand ready to revisit that or any other part as need be.

The next step will be testing with actual users at Michigan State University’s department of Usability/Accessibility Research and Consulting. Although we would, ideally, wait until after testing to make the form available, we decided that current circumstances created a more immediate need. Everybody should have a medical power of attorney. Our goal is to make it readily available and easy to use.

We fully expect to make improvements after testing and over time. We would love to have suggestions from readers of this column on how to make it better.

A final note: the Center is partnering with Michigan Legal Help, which offers an array of helpful information and forms on its website—now including this medical power of attorney. ■



Joseph Kimble taught legal writing for 30 years at WMU–Cooley Law School. His third and latest book is Seeing Through Legalese: More Essays on Plain Language. He is senior editor of The Scribes Journal of Legal Writing, editor of the “Redlines” column in Judicature, a past president of the international organization Clarity, and a drafting consultant on all federal court rules. He led the work of redrafting the Federal Rules of Civil Procedure and Federal Rules of Evidence. Follow him on Twitter @ProfJoeKimble.



Jonathan Brignall is the first graduate fellow of the Kimble Center for Legal Drafting and a research attorney for the Michigan Court of Appeals. He was editor in chief of the WMU–Cooley Law Review and a recipient of both the WMU–Cooley Leadership and the State Bar of Michigan–Tax Section Student Achievement Awards. He was recently admitted to the State Bar of Michigan and is an experienced certified public accountant.

“Plain Language,” edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for 36 years. To contribute an article, contact Prof. Kimble at WMU–Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at kimblej@cooley.edu. For an index of past columns, Google “Plain Language column index.”

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A Power of Attorney for My Health Care



WMU-Cooley Law School

An easy-to-use form
for naming someone to
be your medical agent
in Michigan



(Continued on the following page)

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Who can make medical decisions for me

Introduction



This document is sometimes called an “advance medical directive.”

It is intended for use in Michigan.

An agent is sometimes called a “patient advocate.”

What this document does

Who do you want to make health-care decisions for you if you cannot speak for yourself? In this document, you answer that question by:

- naming someone to be the agent for your health care, and
- describing their powers to make decisions.

Choose someone who will do as you want when the time comes, even if others disagree. **Make sure to talk to your agent (and any backup agents) about this important role and about your wishes — because your agent will be following your wishes.**

How this document is organized

Different parts below are for different people:

- **Section A** (pages 2 through 8) is for you to read, fill out in places, and sign.
- **Section B** (pages 9 and 10) is for the people who act as your witnesses to sign.
- **Section C** (pages 11 and 12) is for your agent and any backup agents to read and sign.

How to use this document

You should fill in this form carefully. After you, your witnesses, and your agents have signed it:

- Give a copy to your doctor, your health-care facility (if possible), and each agent.
- Keep a copy at home in a place where someone can easily get it if needed.
- From time to time, review what you have written.

You can cancel this document at any time. And you can do a new one.

This document does not give legal advice.



The shaded boxes will help guide you in places.

Section A

About my power of attorney



Look through the document to understand the powers you are giving to your agent.

Choose an adult you can trust. You can change your mind later.

Print or write neatly.

1. Who I want to be my agent

Name of agent	
Relationship to me (Examples: spouse, sister, friend)	
Address	
Cell phone	
Other phone (if any)	
Email (optional)	

Go to the next page to name your backup agents



(Continued on the following page)

3. The powers and instructions that I give my agent

Powers

My agent has the authority to make decisions about my medical or mental-health care — the same way I could if I were able. That includes (this is not a complete list) the authority to:

- Agree to, refuse, or withdraw any treatment, procedures, or medication. (My instructions for life-support treatment are in Part 4 on page 5.)
- Get all my medical and mental-health records (I give a release under HIPAA, the federal privacy law).
- Sign a do-not-resuscitate order — an order not to try to revive me if my heart and breathing stop.
- Hire and fire medical professionals and other support personnel, using my assets.
- Admit me to, or discharge me from, any medical-care facility (even against medical advice) or any living facility, including a nursing home or hospice.
- Get legal and personal information, sign documents, and take legal action in my name — if any of these are reasonably needed for my medical or mental-health care.

Instructions

My agent must try to follow my wishes, as expressed in this document, in any other document, or in person. The main concern in making decisions should be my quality of life. My agent should weigh:

- how much benefit I would get from a treatment or procedure, and
- how long the benefit would last, and
- how much it would cost.

And always keep me as comfortable and pain-free as possible.

My agent should try to consult with my immediate family members if reasonably possible. But my agent — who I trust to make decisions in my best interests — has the final say in that regard.

I want my family, doctors, mental-health professionals, and everyone else concerned with my care to follow my agent's instructions.

4. Specific instructions for life-support treatment



There are three choices below. Put your initials after **one choice only**.

Choice 1

I do not want life-support treatment — such as artificial breathing, or getting food or water through tubes, or CPR (trying to restart my heart or lungs) — if any of these conditions exist:

- I have a terminal illness (I will not recover), and treatment would just artificially delay my natural death, or
- I am in a coma (I am unconscious), and my doctor reasonably believes that it cannot be reversed, or
- The burdens of treatment — considering my quality of life, my pain and suffering from the treatment, and the cost — would outweigh the benefit.

Knowing it could lead to my death, **I make choice 1**. Initials:

Choice 2

I want life-support treatment, but not if I am in an irreversible coma.

Knowing it could lead to my death, **I make choice 2**. Initials:

Choice 3

I want life-support treatment to the greatest extent possible consistent with sound medical practice — regardless of my condition, my chance for recovery, or the cost.

I make choice 3. Initials:

If I initial choice 2 or choice 3 above, I am limiting my agent's authority, but only for decisions about life-support treatment. I do not wish to limit my agent's authority in any other way.

Parts 5, 6, and 7 on the next two pages are optional.
You do not have to fill them out.

