

Questions & Answers

about the Durable Power of Attorney for Health Care

(DPA*)

1. What is a Durable Power of Attorney for Health Care (DPA*)? It is a single document designed to serve two functions: (1) to let you put your specific health-care instructions in writing, and (2) to let you appoint someone to make other health-care decisions for you in the event you are unable to do so. Patients could accomplish the above two functions by filling out two separate documents. However, the accompanying DPA form simplifies this by combining these two functions into one form.

2. What is “Part 1—Health-Care Instructions”? This part of the form sets forth your written instructions to others (doctors, nurses, etc.) about your specific health-care wishes. Your instructions do not take effect unless you become unable to make or communicate your health-care decisions yourself. No one except you can change your written instructions, not even the person that you appoint to make health-care decisions for you.

3. What is “Part 2—Appointment of Health-Care Agent”? This part of the form is used to appoint another person to make other health-care decisions for you in the event you are unable to make or communicate such decisions yourself. The person you appoint thus becomes your “health-care agent.” (For more details, see the questions and answers under the “HEALTH-CARE AGENT” heading below.)

4. Do I need a lawyer or doctor to fill out the DPA? No. This question-and-answer guide is designed to enable you to complete the DPA without the assistance of lawyers or doctors. However, you should feel free to consult with anyone you think might be able to help you to fill out the form.

5. Are there instructions or some sort of checklist to help me fill out the DPA? Yes. There is a checklist. (See Figure 1 on the last page of this question-and-answer guide.) However, you should thoroughly read through these questions and answers before using the checklist. Thereafter you may use the checklist when filling out the DPA. The checklist refers to both theocratic articles and specific questions in this guide. Look up the references if you are unsure about the choice or decision to be made.

6. What should I do with my completed DPA? Make several good, clear photocopies of the completed form. (You may want to note on the photocopies where the original is kept.) Keep the original in a secure yet accessible place—not a safe-deposit box. Give a copy to your health-care agent, alternate agent, your doctor (ask your doctor to make it part of your permanent medical record), and any other family members or close friends you want. You may also want to carry a copy with you and put a copy in the glove box of your car. Also, if you know you are going to be hospitalized, you should give a copy of your form to hospital administration.

7. How is the DPA different from a regular power of attorney? Powers of attorney generally are used for business and financial matters, not health-care matters. The DPA, however, is for health-care matters, *not* for business or financial matters.

8. If I already have a living will or other advance directive for health care, why should I execute the DPA? Living wills and other advance directives for health care established by state laws typically limit a person’s right to refuse ‘life-sustaining’ treatment to terminal illnesses. This means that unless your condition is terminal (i.e., you have no hope for recovery and death is imminent), you would not be allowed to refuse blood. Even in states that have laws that do not limit a person’s right to refuse treatment to terminal illnesses, their advance directive forms do not address your refusal of blood and choice of alternative nonblood management as thoroughly as the DPA.

9. Does the DPA replace the “Advance Medical Directive/Release” card? No. These two documents work with each other. The Advance Medical Directive/Release card is small in size so that it can be carried with you at all times. Thus, in the event of an emergency in which you are unconscious, the Advance Medical Directive/Release will identify you as one of Jehovah’s Witnesses, will make known your refusal of blood, and will identify your emergency contacts.

The DPA, on the other hand, contains important information that could not be included on the Advance Medical Directive/Release card. Thus, it would be wise to make the

* The titles of the forms the Society’s Legal Department has prepared vary from state to state depending on state law. For example, California calls its form a “Durable Power of Attorney for Health Care,” Michigan calls its form a “Health Care Directive and Designation of Patient Advocate,” New York calls its form a “Health Care Proxy,” etc. However, since the majority of the titles use the words “power of attorney” or “proxy,” the Society’s Legal Department generally refers to them as either “DPA” (durable power of attorney) or “Proxy” forms.

CONTENTS

Page

GENERAL (Questions 1-14)	1
BLOOD RELATED (Questions 15-17).....	2
END-OF-LIFE DECISIONS (Questions 18-20).....	2
HEALTH-CARE AGENT (Questions 21-26).....	3
CHECKLIST	4

emergency contacts on your Advance Medical Directive/Release the same persons you appoint as health-care agent and alternate agent on your DPA. In this way your health-care agent will be contacted in an emergency and will be able to provide immediately a copy of your DPA to health-care providers, if a copy is not with you. (See Figure 2 on the last page of this guide.)

10. Should I discuss my instructions and appointment of health-care agent with my doctor? Yes. Basically, discuss with your doctor the same information you discuss with your agent. (See Question 23.) Be sure to discuss in depth the many medical alternatives for bloodless surgery that are available and acceptable to you. (See Question 16.) Let your doctor know that you have thoroughly discussed these matters with your agent. (You may even want to introduce your agent to your doctor.) The better your doctor understands you, the less likely it is that problems will arise.

11. Are my doctor and other health-care personnel protected from legal liability if they honor the wishes expressed in my DPA? Yes. A doctor or any other health-care provider is protected from legal liability when acting in accordance with your wishes as expressed in your DPA; indeed, they are legally obligated to respect your wishes. They need be more concerned about liability if they were to act contrary to your DPA.

12. Could my DPA be overridden by my family members or other relatives? No. You alone have the right to control what is done to your body. A family member's or relative's disagreement with your health-care decisions is legally irrelevant. If you have appointed a health-care agent, only he has the legal authority to make other health-care decisions for you.

13. Will my DPA be honored if I travel to another state? It should be. The U.S. Supreme Court has said that the U.S. Constitution gives competent persons the right to refuse medical treatment. Thus, your DPA should be honored in any state. However, because of the potential for uncertainty on this point in some states, there is a thorough discussion of your constitutional rights in the DPA.

14. What if I want to change or cancel my DPA? All you need to do is fill out another DPA. Your new form will contain your changes and will automatically cancel your previous DPA. (To be on the safe side, you may want to ask for your old DPAs back from those to whom you gave one. You should discard your old forms and distribute your new ones.) If for some reason you are unable to fill out a new form, you may simply tell your doctor(s), agent or others about your changes (or that you have decided to cancel your existing form altogether). It is best, however, to put any changes in writing by filling out a new form.

BLOOD RELATED

(DPA, Paragraphs 3-5)

15. Where can I get information about minor blood fractions? Information on minor blood fractions can be found in *The Watchtower* of October 1, 1994, page 31, and *The Watchtower* of June 1, 1990, pages 30-31.

16. Where can I get information about medical alternatives and bloodless surgery? Information on medical alternatives to blood transfusion and on bloodless surgery techniques can be found in *Awake!* of November 22, 1991, page 10, *How Can Blood Save Your Life?* pages 14-17, 28, and *Jehovah's Witnesses and the Question of Blood*, pages 49-58.

17. Where can I get information about autologous blood—procedures such as hemodilution and intraoperative blood salvage? Information on autologous transfusion therapy can be found in *The Watchtower* of March 1, 1989, pages 30-31.

END-OF-LIFE DECISIONS

(DPA, Paragraph 6)

18. What are end-of-life decisions? End-of-life decisions are potential life-or-death decisions patients may face because of deteriorating health (perhaps due to old age) or because of a serious accident. For example, if you are hopelessly ill, would you want to be kept alive on a respirator? If you are terminally ill, would you want to be fed intravenously or by other artificial methods? If your situation is hopeless, would you want all financial means available to you or your family to be expended to pay for treatment, perhaps involving transportation to a distant center to receive the most advanced treatment? These and other questions about end-of-life decisions are addressed in *Awake!* of October 22, 1991, pages 3 to 9.

19. Why should I think about end-of-life decisions now? Questions about end-of-life care can arise suddenly and unexpectedly. Thus, it only makes sense to think about these matters while you are capable of doing so. Although discussing end-of-life decisions may not be easy for some, imagine the difficulties your spouse or family would face if your wishes were unknown. You can make your wishes known, of course, by recording your instructions in Paragraph 6 of the DPA. You can also make your wishes known by appointing a health-care agent in Paragraph 11 of the DPA and discussing your wishes about end-of-life care with your agent.

20. Are there any circumstances where a Christian may choose NOT to prolong life? Yes. For a Christian, questions about whether life should be prolonged or not arise *only* if his medical condition has been *clearly determined to be hopeless*. See *Awake!* of October 22, 1991, pages 7-9; *Awake!* of September 8, 1986, pages 20-21. Examples of hopeless situations might include the following: (1) to a reasonable degree of medical certainty you have an incurable

and irreversible condition that will result in your death within a relatively short time, (2) you are unconscious and to a reasonable degree of medical certainty will not regain consciousness, or (3) you have brain damage or a brain disease that makes you unable to recognize people or communicate and to a reasonable degree of medical certainty your condition will not improve.

HEALTH-CARE AGENT (DPA, Paragraphs 11-14)

21. What will my health-care agent do? Your agent will make health-care decisions for you. However, because your written instructions in Part 1 of the DPA set forth your health-care wishes, your agent will make decisions only on matters *not* covered by your instructions.

To illustrate, if you are unconscious but your doctor, who knows that you are one of Jehovah's Witnesses, wonders if you will refuse blood in a life-threatening situation, your written instructions in Part 1 clearly answer this, so your agent has no authority in the matter. However, your agent can direct the doctor to your instructions and ensure that your wishes are respected. On the other hand, if you are in a coma and the doctor wants to know what kind of treatment to give you, your agent would make decisions for you if your written instructions in Part 1 do not cover this.

For decisions your agent makes that are not covered by your instructions, your agent will be guided by your personal beliefs and values. As you might well imagine, acting as a health-care agent is an extremely serious matter since the agent could be required to make life-or-death decisions for you.

22. Whom should I appoint as my health-care agent? Your agent should be someone you trust and are close to, someone who understands your personal beliefs and values, such as a close family member or a good friend. Before appointing an agent, ask yourself:

(1) If questions arise about my health care that are not covered by the instructions set forth in my DPA, can I trust that my agent will make decisions consistent with my beliefs and values as a true Christian?

(2) If someone challenges my written instructions, is my agent capable of taking steps to see that my wishes are upheld? How would my agent react to a hospital or courtroom setting in which my instructions are questioned?

Thus, before appointing an agent, it would be good to talk with the person you have in mind to make sure he under-

stands your wishes and is willing to assume the responsibility of acting as your agent.

23. What should I discuss with my prospective health-care agent? You should discuss your personal beliefs and values, and you should be sure your prospective health-care agent understands you.

Discuss the health-care instructions that appear in Part 1 of the DPA. The discussion should review your specific instructions about homologous blood, minor blood fractions, nonblood alternatives, and autologous blood. Also, discuss your instructions about end-of-life decisions, since doctors will look to your agent if questions arise that are not addressed in your written instructions. In addition to discussing and explaining the instructions in Part 1 of your DPA, express your general feelings about medical treatment and explain **WHY** you feel the way you do.

Discuss Part 2 of the DPA. That is, the responsibilities (described in the form) and decisions your prospective agent may be faced with in the event your instructions in Part 1 do not cover a situation that arises.

24. Why is it so important that I talk with my health-care agent in advance? It is important to talk to your agent because the guidelines set forth in your instructions (especially with regard to end-of-life decisions) cannot cover every situation. If you fail to discuss such matters with your agent, serious problems could arise. Obviously, if you avoid thinking about these matters it does not mean different situations will not come up. It only means that someone else will have to decide for you without the benefit of your general views and feelings on the matter. Therefore, meaningful discussions you have with your agent can guide him in the event a situation comes up that is not covered in your written instructions.

25. If I became unable to communicate or make decisions myself, would my doctor be obligated to consult with my health-care agent? Yes. Your health-care agent has legal authority to make medical decisions for you in harmony with your wishes as stated in your DPA. Your doctor is therefore legally obligated to consult with your health-care agent and to respect his decisions as if they were your own.

26. Could my health-care agent be held legally liable for decisions he makes for me? No, your health-care agent will not be liable for treatment decisions made in good faith on your behalf. Also, he cannot be held liable for the costs of your care.

FIGURE 1:

Checklist for Filling out Durable Power of Attorney for Health Care

(check off each box below as section is completed)

<input checked="" type="checkbox"/>	<u>What To Do</u>	<u>Reference(s)</u>
<input type="checkbox"/>	Paragraph (1) •Print your full name	self-explanatory
PART 1—Health-Care Instructions		
<input type="checkbox"/>	Paragraph (3) •Initial one of the three choices regarding <i>minor blood fractions</i> .*	w94 10/1 p. 31, w90 6/1 pp. 30-1
<input type="checkbox"/>	Paragraph (5) •Initial choice(s) regarding <i>autologous blood</i> .*	w89 3/1 pp. 30-1
<input type="checkbox"/>	Paragraph (6) •Initial one of the three choices regarding <i>end-of-life</i> decisions.	q&a #18-20, g91 10/22 pp. 3-9, g86 9/8 pp. 20-1
PART 2—Appointment of Health-Care Agent		
<input type="checkbox"/>	Paragraph (11) •Name a health-care agent, list address, and telephone numbers.	q&a #3, 21-26
<input type="checkbox"/>	Paragraph (12) •Name an alternate health-care agent, etc.	self-explanatory
<input type="checkbox"/>	Paragraph (20) •Sign your name in the presence of two witnesses or a notary public, etc.	self-explanatory
<input type="checkbox"/>	Paragraph (21) •Two witnesses or a notary public signs, etc. If witnessed rather than notarized, one witness must also sign the Declaration statement. Also, if at the time you fill out the form you are a patient in a skilled nursing facility, one of the witnesses must be a patient advocate or ombudsman.	self-explanatory

Abbreviations: w = *The Watchtower*; g = *Awake!*; q&a = Refers to this 4-page guide with its questions and answers.

* This is a conscience matter and may not be acceptable to some of Jehovah’s Witnesses.

CA 1/97

FIGURE 2:

(You may wish to type or write in the language indicated below on your Advance Medical Directive/Release to indicate that you have executed a health-care power of attorney.—See question and answer #9 on first page of this guide.)

Allergies: _____

Current medication: _____

Medical problems: _____

MEDICAL DIRECTIVE
(Signed document inside)

I have also executed a health-care power of attorney (or proxy).

NO BLOOD



4

**IN CASE OF EMERGENCY,
PLEASE CONTACT:**

Name: _____
(health-care agent)

Telephone: _____

Address: _____

ALTERNATE CONTACT:

Name: _____
(alternate health-care agent)

Telephone: _____

Address: _____

Open to signed document ↓