

Wisconsin Advance Directive and Decision-Making Overview

Who Makes Decisions If You Cannot?

If you become incapable of making your own, informed, health care and financial decisions, there are three options:

1. **Powers of Attorney:** Act in advance (the sooner the better) to create a power of attorney for health care and a power of attorney for finance (also known as “advanced directives”). This is the most **self-directed** way to plan ahead and select who will make decisions for you. Each **lets you choose** someone you trust in advance to help make decisions for you, and each takes effect based on what you specify in the POA documents.

Health Care Power of Attorney

When you are incapacitated, your designated agent can make medical decisions for you, such as:

- Talking with doctors and approving treatments.
- Making health care choices based on your wishes.

When does it start?

A Health Care POA usually starts **if you cannot make or communicate your own medical decisions**.

In Wisconsin, this is generally determined by **two doctors, or one doctor and another qualified health professional**.

Financial Power of Attorney

Your designated agent for finances can help with:

- Paying bills (mortgage, insurance premiums)
- Managing bank and investment accounts and handling and property and other assets

When does it start?

A Financial POA starts based on what you specify in the document, popular options are:

- **right away** when signed;
- at the time when you become **unable to manage your finances**, or
- when another event you choose happens (for example, if you are out of the country).

2. **Patient’s Representative:** If you are already in the hospital, with no assigned health care power of attorney and are not under guardianship, and you do not have the capacity to make health care decisions, a relative or close friend can act as your “patient’s representative” with **limited** authority to make **health care decisions** and authorize **health care expenditures** on your behalf. The representative can authorize that you be transferred from the hospital to a long-term care facility (a skilled nursing facility or a community-based residential facility).

3. **Guardianship:** A guardianship action can be filed in county probate court. This requires an assessment by a physician which the court uses to make a finding that you are “incompetent,” remove many of your decision-making rights, and assign authority to a guardian to make health care, financial, and other decisions for you. **Only the court can create, modify, or end** the authority granted to the guardian.

A guardian is appointed by a judge when someone cannot make decisions and:

- Never completed a Power of Attorney, or
- Needs more protection than a Power of Attorney provides.

Based on the findings of the court, the duties of a guardian may include health care and financial duties similar to powers of attorney, but can also be broader such as authority to consent to some health care treatment over your objection. Guardians must report to the court annually, and must take a “how to”

Good news! You have access to additional information including “do-it-yourself” guides and the standard STATE OF WISCONSIN POWER OF ATTORNEY FORMS on the Guardianship Support Center Website at gwaar.org/gsc.

Questions? Wisconsin Guardianship Support Center | gwaar.org/gsc

 guardian@gwaar.org |  1-855-409-9410