



Information sheet no. 24

Precautionary power of attorney, healthcare directive, living will

An accident, a stroke, an operation or any other event can affect anyone suddenly and result in situations where you can no longer take responsible action or make reasonable decisions. In cases of this nature, even family members are only able to make decisions or take any action with a power of attorney. A written power of attorney is therefore always necessary.

Right of spousal emergency representation

Any spouse may make health care decisions for the other spouse for no more than 6 months. The prerequisite is that the doctor of the individual incapable of acting and making decisions has certified that this is needed. The power of attorney is not granted if the spouses are separated. If the spouse in question has already granted power of attorney to someone else, the power of attorney cannot be applied.

In addition, the only way to ensure a comprehensive power of attorney covering all matters of life is by the use of a written declaration in a power of attorney.

Health care power of attorney

A healthcare power of attorney nominates one or more named individuals to act on behalf of the beneficiary if they become unable to make decisions or take action.

The power of attorney is mainly binding between the granting and appointing parties from the date it is granted. The trust placed in the appointed person is the decisive factor.

If the power of attorney is merely restricted to making banking transactions, it is referred to as a bank power of attorney. Powers of attorney for accounts, custody accounts and safe deposit boxes should be granted directly at the banks or savings banks, as they often only accept their own standard forms.

A power of attorney should only be granted if the authorised person has full legal competency. It can also be notarised. If you are the owner of a house or a property, a notarised power of attorney is recommended. District care authorities can also officially confirm the signature of the authorising person for a fee.

The authorised person may only act with the original power of attorney. There may be areas that require additional judicial authorisation, for example admission into a psychiatric institution or certain serious health related decisions.

In addition, appointing a designated proxy to act on your behalf in the event that the authorised person is unable to fulfil this role due to an illness or other serious impediment is strongly advised. If the power of attorney remains in force after death, this must be stated.

Power of attorney for long-term care

A power of attorney for long-term care nominates one or more individuals to be appointed by the guardianship court in the event that a person is in need of long-term care. However, the affected person can also specify who should not act as a legal guardian under any circumstances. Specific wishes regarding the management of the legal guardianship may also be specified.

Patient living will

With a patient living will, wishes regarding certain medical treatments or medical interventions are documented in a written form in the event that the ability to express, make decisions and give consent is no longer possible. One or more individuals may be nominated to make the necessary declarations. The stated wishes should be carefully considered in advance.

Outpatient hospice services, local care associations or the central contact point for hospices <https://www.hospiz-aktuell.de/> offer free counselling and help with the choice of wording.

The power of attorney may include all clinical conditions or symptoms. It is binding in any phase of illness. A living will must be available in written form. Professional counselling is not mandatory prior to the drafting of a living will, but is recommended, as is a regular update of the living will.

The affected person may change their will at any time.

It is recommended that the power of attorney is combined with a living will.

The originals should be kept easily accessible and those listed in the power of attorney or advance directive should be informed. They can also be registered with the Federal Chamber of Notaries <https://www.vorsorgeregister.de/>.

We advise keeping a note card in your wallet stating that a living will, health care power of attorney or a care directive has been written, where the original document is kept and who should be informed in this situation.

Staff at the care support centre will be happy to provide you with advice

Free service number: 0800 5950059

www.pflegestuetzpunkteberlin.de

The care support centres are operated by the state of Berlin and the care and health insurance companies based in Berlin