

## Information sheet No. 24

# Health Care Proxy - Power of Attorney for Care - Patient Decree

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An accident, a stroke, surgery or other events can affect anyone unexpectedly and lead to situations in which one cannot be responsible to act and make decisions. In these cases, family members can decide only with a power of attorney. For this to be possible, a written declaration of intention is required.

### **Health care proxy**

With a health care proxy or power of attorney, one or more persons are named, who will act in the event of the person's incapacity to act or make a decision.

The power of attorney is valid between the person issuing the power of attorney and the person accepting the power of attorney (and third parties, to whom declarations are to be made) from the time it is issued. Decisive is the trust the person issuing the power of attorney to the person accepting power of attorney. e.g. that use thereof is only made when incapacity occurs. It can cover all matters such as conclusion of a home contract, asset management, home affairs, etc.

If the power of attorney is restricted only to carrying out banking transactions, it is called a bank power of attorney. Power of attorney over accounts, deposits, security boxes, etc. should be issued directly from the bank or savings bank, since they usually only recognize their own forms.

A power of attorney should be granted only by a person with his/her full capacities and can also be notarized. This has the advantage that the business or consent capability of the person concerned will be checked and the authorization may be filed with the notary. If a home or property is present, a power of attorney is essential.

For a fee, the care authority can officially confirm the signature of the person granting power of attorney.

The authorized person can act only with the original of the power of attorney. There are areas such as accommodation within a closed facility or serious decisions in the area of health, which, in addition, require a judicial authorization despite the existence of a power of attorney.

Furthermore, it is advisable to name a replacement power of attorney, in the event that the originally authorized person cannot fulfil this task due to illness or other serious prevention. It must be stated if the power of attorney is valid beyond death.

Should one person of your trust be entrusted with all tasks that are otherwise separated into power of attorney for care, health care proxy or patient decree, then a **general power of attorney** should be issued. In this power of attorney, all details should be stated accurately, as in the various documents.

### **Power of Attorney for Care**

With a power of attorney for care one or more persons are appointed when the need for care arises according to §1896 BGB by the guardianship court for carers. The affected person may also state, who are not chosen to act as a care proxy. The power of attorney for care also comes into question when you cannot or will not designate any person as proxy, but prefer a judicially controlled provision of your affairs. In this power of attorney, specific requests regarding the management of the care can be expressed such as choice of doctor, determining an inpatient or outpatient facility, procedure for the liquidation of the home, among other affairs.

Notarization is not required. However, you should inform the desired carer so you have the certainty that the task will be assumed.

### **Patient Decree**

With a patient decree, wishes, in the event that the utterance, decision-making and consent ability is lost, are recorded in writing with regard to certain medical treatments or medical intervention. As in the power of attorney for care, one or more persons may be named who are to make the necessary decisions. The wishes named, such as denial of treatment with life-extending measures or limitation of treatment only to pain medication, should be discussed in advance with a doctor of your trust. Outpatient hospice services, the local care associations or the central point of contact for a hospice (ZAH) also offer free consultation and formulation aids.

The legal regime for the patient decree states inter alia that carers and powers of attorney are bound to the written power of attorney for care in the case of incapacity of the person concerned. It must be considered whether the provisions in the patient decree comply with the current life and treatment situation and correspond to the will of the person for whom decisions are being made.

The patient decree may include any medical conditions or physical states. It shall be binding in any phase of the disease, unless the affected person changes their will. **A patient decree must be made in writing.** Professional advice before drafting a patient decree is not mandatory, however is recommended, as well as a regular update of the patient decree.

It is advisable to join a health care proxy with a patient decree. The person can decide whether and how they should be combined in order to realize the greatest possible care benefits for him/her and his/her living conditions.

The originals should be kept easily accessible and those who are listed in the power of attorney or patient decree should be informed. They can also be kept with the notary or registered with the Federal Chamber of Notaries.

It is advisable to have indicative cards in your wallet with the comment that a health care proxy, patient decree or a power of attorney for care has been written, where the original is and who is to be informed in this case.

**The staff of the care support point will be happy to help you.**

**[www.pflegestuetspunkteberlin.de](http://www.pflegestuetspunkteberlin.de)**

Support for the care support centres is provided by the state of Berlin and the care and health insurance in Berlin