

Just news

What gives you the right?

A Power of Attorney for Health Care allows a person to designate another to make health care decisions on his or her behalf during periods of incapability

BY DONNA MEYER

If you can't make health care decisions for yourself, who decides for you?

You are in a coma, like Sharon Kowalski immediately after her car accident, or you have AIDS and are delirious from fever. Your parents from Baton Rouge, to whom you are not "out" and only see on holidays, are by your side within 12 hours of the telephone call from your "roommate." Thank God, thinks the doctor, someone with the authority to make decisions. The "roommate" has been a real pain in the ass, asking questions, requesting medical records, trying to discuss alternative treatments.

But now with the parents on the scene, the "roommate" is no longer seen or acknowledged by the doctor. So your lover gets strident, and demands the right to participate in making decisions.

Faces turn. "Who are you?" barks your dad. "What gives you the right?" demands your mother. They mean well.

"Well," your lover stammers, "Our relationship, I mean, we have been living together for seven years...I know him/her better than anyone else does...what s/he would want..."

Is this scenario among your top 10 worst fears? What? You say you don't want to talk about it? It is an emotional bag of worms, and the personal issues are complex. Many gays and lesbians have been forced to face these issues head-on, and have had some personal success. But in a homophobic society, personal solutions are not always enough, and it helps to have legal backup. The Oregon Legislature recently passed a law which will give your lover, or other trusted friend, an answer to the question: *What gives you the right?* Beginning October 3, s/he can hand the doctor a document headed *Power of Attorney for Health Care*.

Simply stated, a Power of Attorney for Health Care allows you to designate someone else to make health care decisions on your behalf during periods of time when you are "incapable." For purposes of this law, "incapable" means that a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person *presently* lacks the capacity to make his/her own health care decisions. The person you appoint, called an "attorney-in-fact," has authority to make decisions on your behalf only when you are unable to make your own. But during the time that you are "incapable" the person you have appointed has a priority over any other person to make health care decisions. The attorney-in-fact also has the same right as you do to receive information regarding the proposed health care, receive and review medical records, and to consent to the disclosure of medical records. Last, the law allows you to name an alternate attorney-in-fact in case the

first person appointed is unable or unwilling to act on your behalf.

What is a health care decision? It includes not only consent to health care but refusal of consent or withdrawal of consent. This is clarified further with the definition of "health care" as "treatment or care to cure or ameliorate the effects of disease, injury and degenerative conditions..." This definition of health care is broader than the traditional concept of "medical care," and encompasses a broad range of personal care and rehabilitative decisions.

There are guidelines that the attorney-in-fact must follow. The person you appoint has the duty to act consistently with *your* desires to the extent that they are known. Only if your desires are not known may the attorney-in-fact make decisions based on what s/he individually and in good faith believes to be in your best interest.

A Power of Attorney for Health Care must follow a form prescribed in the law. In addition to appointment of the attorney-in-fact and an alternate, the form allows space for you to give specific instructions regarding your wishes. The form also allows you to give your attorney-in-fact the authority to make decisions regarding (a) withholding or withdrawal of life-sustaining procedures with the understanding that death may result; (b) withholding or withdrawal of artificially administered hydration or nutrition or both with the understanding that dehydration, malnutrition and death may result. Either or both of these options may be chosen by checking the appropriate place on the form. An attorney-in-fact does not have the authority to make these types of decisions unless the option is explicitly chosen by you.

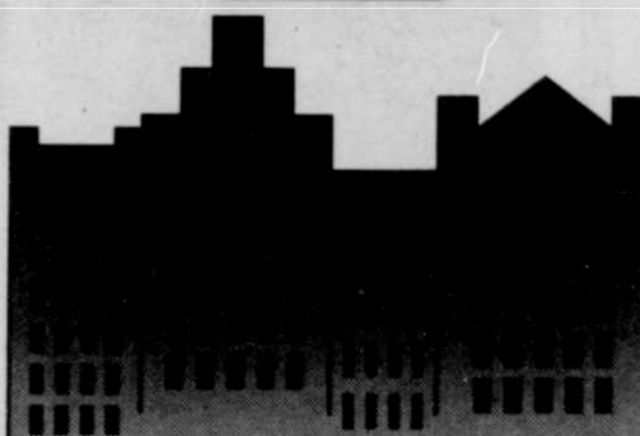
What if you have a falling out with the person you appointed? You may revoke your Power of Attorney for Health Care, so long as you are "capable" at the time that you revoke it. A Power of Attorney for Health Care continues in effect for a period of seven years unless you become unable to participate in your own health care decisions during that time, at which point it will continue until you are able to participate in those decisions again.

The underlying premise of the new law is self-determination and autonomy in health care decision-making. A person's right to privacy has long been interpreted by the courts to include the right to make one's own decisions regarding what shall be done with his/her own body (abortion rights now being subject to some exceptions). The new law is a step toward extending that right by allowing us to make our own decisions regarding who will speak and act on our behalf if we aren't able to communicate for ourselves. *Next time your roommate doesn't have to stammer.*

Donna Meyer is an attorney in private practice in Portland.

DOWNEY

INSURANCE AGENCY, INC.



Bridget I. Downey

P.O. Box 40626
Portland, OR 97240
610 S.W. Broadway, #408
(503) 228-8327

AGATHA PET SERVICES

In-Your-Home Pet Sitting

- Ever worried about boarding out your pet?
- Ever wished you knew someone trustworthy to care for your pet at home, instead of leaving him/her in a foreign environment?
- Ever had to travel out of town unexpectedly?
- Ever cut short a visit to return home to care for your pet?

AGATHA PET SERVICES is licensed to provide care for your pet in your home.

AGATHA PET SERVICES is available 24 hours a day, 7 days a week.

AGATHA PET SERVICES is convenient.

AGATHA PET SERVICES

In-Your-Home Pet Sitting

775-3766

Photo: Laura Ewig

gazelle
NATURAL FIBRE CLOTHING

54 SW 2nd ■ 228-1693 ■ Mon-Sat 10-7 ■ Fri till 9 ■ Sun 10-6

Right to Privacy Political Action Committee

VIII
ANNUAL

LUCILLE HART
DINNER

SATURDAY, OCTOBER 7, 1989

Hilton Hotel, Portland, Oregon

Keynote Speaker

U.S. CONGRESSMAN GERRY E. STUDDS
Democrat, Massachusetts

Tickets \$75
(tax deductible as allowed)
Cocktails 6:00 P.M.
Dinner following.
Black tie optional.



For ticket reservations write:
Right to Privacy P.A.C.
921 S.W. Morrison,
Portland, Oregon 97205
or call 228-5825.

Café Mocha

An alcohol free space
to dance & play

288-9950

4108 NE Sandy Blvd.