Michigan Statutory Requirements for Designation of Patient Advocate

A Designation of Patient Advocate is often a part of an advance directive of healthcare. The Designation of Patient Advocate portion is the legally recognized document in Michigan, and includes the naming of an individual, the Patient Advocate, that will make medical decisions for a person if he/she is unable to do so. The additional medical wishes contained within the document, often referred to as the living will portion, are not legally binding but do act as a guide for the Patient Advocate. For these documents to be valid, the following must be met:

* Person must be 18 years of age or older, competent, and the document must be voluntarily created.
* Must name a person of the person’s choosing to make medical decisions on their behalf; known as the Patient Advocate or Durable Power of Attorney for Healthcare.
* Must specifically award life and death or end of life medical treatment decision-making powers. A general durable power of attorney that awards financial powers to someone, including powers to consent to treatments or payments for healthcare is *not* sufficient.
  + It is also argued that the document must mention that the person understands treatment withdrawal decisions should apply, even if it were to result in their death.
* States the Patient Advocate applies only when the person is unable to participate in medical treatment decisions. Determination of incapacitation is assessed by the person's attending physician and another physician or licensed psychologist.
* Must be signed & dated by the person (ink).
* Requires two witnesses who shall not be:
  + person's spouse, parent, child, grandchild, sibling, presumptive heir, or someone who stands to inherit from the person at the time of the witnessing
  + physician, patient advocate or employee of a life or health insurance provider for the person
  + physician, person advocate or employee of a health facility that is treating the person. This is often interpreted that a volunteer of the health facility is also unable to serve as a witness.
* A witness shall not sign the designation unless the person appears to them to be of sound mind and under no duress, fraud, or undue influence. It is recommended as a best practice that the witnesses signature is also dated.
* Person’s advocates, also known as healthcare agents, sign & date the person advocate acceptance section, signifying their understanding of the role and acceptance of the responsibility. To be valid in MI, a directive must contain this language.
* There is no requirement in MI for the document to be notarized.
* May be revoked by the person at any time in any manner.