



Elder Law: Some considerations on health care decision-making

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There are two very important health care documents of which everyone should be aware. The first, which we have written about in the past, is an advance directive for health care.

This written set of instructions states your wishes for medical treatment. You name a "health care agent" to either follow your express wishes or to decide on treatment if you are unable to do so, whether or not you are terminally ill or permanently unconscious.

The "living will" portion of a health care directive is where you can state what types of medical treatment you want or don't want. This document is generally used to allow the individual to state when he or she would no longer want certain types of life-prolonging measures. It's only a statement of wishes, but nonetheless is generally followed.

Sadly, it's been estimated that less than 30 percent of the adult population has such a document. The lack of an advance directive can often leave family members in a horrendous situation in trying to determine a person's wishes.

If you don't have one, get one! You can obtain a copy of an advance directive developed cooperatively between members of the Allegheny County Bar Association and the Allegheny County Medical Society. It can be found at the bar association's website, <http://www.acba.org/public>. Click on "Living Will."

The second document may be quite unfamiliar to many of our readers: the POLST, or Physician Orders for Life Sustaining Treatment.

This is a tool for advance care planning for individuals with "life limiting" illnesses. This document — frequently used by older and sicker patients, and after a conversation with their health care provider in which the individual states his or her goals and wishes — can then become

a physician order for treatment. The form is particularly useful for those patients whose physician “would not be surprised if the patient would die within the next year.”

In early 2010, Pennsylvania POLST users developed a form consistent with present state law, taking into consideration that emergency medical services are required to begin CPR except when there was an existing “Out of Hospital Do Not Resuscitate Order,” even though the patient may not have wanted to be resuscitated.

The POLST form, usually a vibrant pink color, can follow the patient from one clinical setting to another (example: from hospital to nursing home, home care and/or hospice settings, and for emergency medical service providers). Once completed, the form becomes an actual medical order. Because of its color, it is relatively easy to find in a voluminous medical record, especially if a patient is being transferred among various facilities.

The form contains five major sections:

A. Cardiopulmonary resuscitation — do or don’t do?

B. Medical interventions (if the person has a pulse and is breathing): comfort measures only, limited additional interventions, or full treatment?

C. Antibiotic use — how much, how little, any?

D. Artificially administered hydration/nutrition — any, none?

E. Summary of the patient’s goals, medical conditions and signature area for the patient or the person’s agent.

If you or a loved one has a serious health condition, ask your doctor about the form. Once signed by the patient and the physician, it becomes a medical order.

Because at present there is no statutory authority for the POLST, some medical providers have been reluctant to use or accept it. The Pennsylvania Medical Society, along with other interested individuals and groups, has pushed for legislation in Pennsylvania to help ensure that such forms can be accepted statewide.

If successful, such legislation will go a long way in helping individuals ensure that their end-of-life wishes are followed in a compassionate manner while granting the patient the autonomy for medical decision-making to which they are entitled.

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