

Elder Law: Keeping The Faith: Cultural and Religious Considerations When Drafting Advance Health Directives

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During the opening months of my practice as an Elder Law Attorney, I spent hours upon hours learning about the various, important planning techniques involved in preserving a family's estate. This training involved: Federal Estate Tax, Pennsylvania Inheritance Tax, Probate Avoidance, Medical Assistance and Veterans Affairs Benefits. These are the keystones of Elder Law/Long Term Care Planning and can mean the difference between a family maintaining its standard of living and losing their entire life savings.

Needless to say, learning these factors, techniques and laws dominated the early stages of my career. This training caused me to focus on the bottom line of understanding how to best preserve a family's assets and how to best access the multitude of benefits for which our clients are eligible. It took a particularly enlightening client meeting to show me the greater picture of some clients' values in Elder Care Planning.

Just before the holidays of my first year at Julian Gray Associates, I met with a family to execute their estate planning documents. This particular family adhered to the Greek Orthodox Faith which led to a number of fulfilling conversations between me and the family through the course of planning.

While I was explaining the decisions necessary to execute their Living Will, I discovered the very specific needs this family required to balance properly placing their Living Will while keeping in line with the tenets of their faith. Concurrently, I made sure to complete the documents to their wishes with sensitivity to their religious beliefs and we completed their estate plan.

Being a student of history and religious studies in college, this interaction piqued my interest, so I decided to research specific cultural considerations a practitioner should keep in mind while drafting Advance Health Directives. My research garnered numerous planning techniques that allow a family to be sure that their ongoing health care will be taken care of to best reflect their wishes as well as adhere to their faith and culture.

Advance Health Directives are particularly important to religious groups due to the decisions that one makes within the documents, especially in the case of Living Wills. This is because Living Wills and Advance Health Directives present the opportunity for an individual to make specific health care decisions ahead of time in the event they become incapacitated or cannot communicate for themselves.

There are times when making these decisions could potentially be detrimental to clients' values. Some of the interesting considerations I discovered in my research are related to specific faith communities. They include:

The Catholic Faith: A member of the Catholic faith must examine the applicability and usefulness of complicated medical procedures. If it can preserve an individual's life, it is necessary to go through, if it is merely prolonging the process of dying, it can be refused. The withdrawal of medical procedures must never be done with the purpose of causing death.

The Judaic Faith: Judaic scholars agree that life is valuable and it is an individual's responsibility to protect his or her life and seek healing. They also agree that there is autonomy in making decisions that may risk one's life. They also agree on the individual's ability to reject mechanical life sustaining apparatus as well as the use of hospice care.

Orthodox Christian Faiths: The Orthodox Faiths encourage the use of advance health care directives for two reasons: first, it allows the individual to make decisions regarding their health prior to becoming incapacitated; second, it allows the individual to align their course of treatment with their faith. Therefore an individual can assure that their course of conduct will strike a balance between personal comfort and alignment with the tenants of their particular denomination.

The Islamic Faiths: In determining brain death, two doctors must make the determination that the individual is brain dead before life sustaining treatment is to be withdrawn.

The above-mentioned bullet points are not an exhaustive list but merely meant to illustrate some of the specific requirements I found that should be included in Advance Health Directives drafted in adherence to faith communities.

In summation, through my growth and research as an Elder Law Attorney I have found that, while the vast majority of my clients agree that it is best to avoid unnecessary taxes and medical costs, there are some very nuanced and specific needs each client may have with regards to their health care decisions at the end of their lives. As a practitioner this caused me to expand my scope to include considerations for my clients' potential cultural and religious sensitivities in drafting their documents.