



Elder Law: Tale of two deaths demonstrates why health care directive is vital

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By Julian Gray and Frank Petrich

This is a challenging but vitally important topic for us to discuss. Recently, one of our spouses died, unexpectedly, after 49 years of a fine marriage. The death involved the determination to withdraw life support.

Within a week of her death, a relative, by marriage, of another close family member also died unexpectedly. The contrast between the two situations should be somewhat instructive.

In our spouse situation, there had been numerous discussions over the years about what both of the parties wanted done in the event a situation of this nature would occur, including the appointment of people to act as decision makers if the parties were unable to make their own decisions. Funeral arrangements were also agreed upon.

In the close family member situation, virtually none of this had been done. This included not having a will in a third marriage situation and having children of each of the marriages. At the time of death, the family was in turmoil not only because of its unexpectedness but because — even though there were some discussions — there was no planning or written documentation.

Obviously, the death of a loved one is never easy nor without regrets. Discussions about goals, preferences and values relative to medical care beforehand certainly helps make it easier for the person now making that decision to carry out the loved one's wishes. It's best to put them in writing by the use of an advance health care directive.

An advance health care directive is a written set of instructions which state your wishes for medical treatment. In these instructions, you name a "health care agent" to either follow your express wishes or to decide treatment for you if you are unable to do so, whether or not you are terminally ill or permanently unconscious.

As with a power of attorney, we like to use a "rule of three" in naming at least one primary person and two backups.

By appointing a knowledgeable and constructively assertive agent/advocate, you can help assure that your health care wishes are followed by others. However, never, never, name someone as your agent without first having an adequate discussion of your wishes and obtaining their acknowledgment to serve in that critical role.

As part of your discussions, also hold a family meeting (the holidays are a good time when the family members may all be gathered) to help ensure all know what your wishes are. Also have the discussion as to the "living will" portion of a health care directive.

The "living will" portion of a 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 medical treatment.

Note, however, you can also direct more aggressive care even in very difficult circumstances. Whatever your decisions may be, the living will portion of an advance health care directive should help minimize potential interfamilial conflict because these are your wishes, not those of family members.

It is important to note that, even though you may have the document, nothing is more important than having the conversation with your family.

Now that your family or trusted friends have some understanding of what your wishes are, how can you obtain an advance health care directive to put these wishes in writing? Your lawyer can do it for you. You can also obtain a copy of one developed cooperatively between members of the Allegheny County Bar Association and the Allegheny County Medical Society. It's available at the bar association's website: www.acba.org/public.

Don't forget to also discuss your choices with your physician and maybe even your spiritual adviser. Once the document is signed, stick the original in your refrigerator where it's easily accessible, after giving copies to whomever you wish.

Trust us, the hard decisions that sometimes must be made can be made somewhat easier by timely and appropriate discussion and planning.

Knowing how difficult it is to start the conversation when a family is together, you might want to consider emailing a link to this column to family members and tell everyone to read it prior to the holidays or a meeting to set the expectation that it's going to be discussed.

Julian Gray and Frank Petrich are certified elder law attorneys who practice in the Pittsburgh area at Gray Elder Law. Send questions to elderlawguys@grayelderlaw.com or visit www.grayelderlaw.com.