

ADVANCED HEALTH CARE DIRECTIVES:

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Estate, Legacy and Business Planning

End-of-Life Planning Can Put You and Your Family at Ease BY GARY ALTMAN, ESQ.

In recent months, the world has had to say ‘goodbye’ to many well-known figures. Some, we lost rather unexpectedly - Heath Ledger and Michael Jackson, for example. Others lost long-fought and very public battles with cancer - Farrah Fawcet, Ted Kennedy, Patrick Swayze . . .

The latter three, who many would say were fortunate to have had the time to come to terms with their illnesses, were also faced with the very real possibility that they could become suddenly incapacitated. Such circumstances present a classic example of why having an “Advanced Health Care Directive” can bring peace of mind and offer some control over the end of one’s life.

What are Advanced Health Care Directives?

Simply put, Advanced Health Care Directives are instructions given by individuals specifying what actions should be taken for their health in the event that they are no longer able to make decisions due to illness or incapacity.

A “Living Will” is one form of an Advanced Health Care Directive. It records your wishes regarding various types of medical treatments, such as resuscitation, life support, artificial feedings and organ donation.

Another form authorizes a “Medical Power of Attorney” (also known as a “Health Care Proxy”) whereas someone is appointed by the individual to make decisions on their behalf if, and only if, they become mentally incompetent and unable to make decisions on their own.

I encourage my clients to have both documents in place to provide the most comprehensive guidance regarding their end-of-life care.

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Who Needs One?

My rule of thumb is that anyone over the age of 18 needs an advance medical directive. Seem young? Consider this: Because of privacy laws such as HIPPA (Health Insurance Portability and Accountability Act), your right to make decisions, or even get an update on the medical condition for others – including your own adult children – may be limited without the proper authorizations in place.

And, of course, no one can forget the Schiavo case in Florida in which Michael Schiavo fought a seven year long legal battle to have the life-sustaining feeding tube removed from his wife, Terri, who was in a persistent vegetative state.

There’s No Such Thing as Perfect

The documents composing one’s Advanced Health Care Directive – including living wills, do-not-resuscitate (DNR) orders and medical powers of attorney – are not perfect.

Such directives, no matter how carefully crafted, can not possibly cover every contingency, and, unfortunately, sometimes they aren’t filed or followed. Never-the-less, they provide a certain measure of protection for the patient by making their wishes known and assigning someone to carry them out.

The Bottom Line:

Making decisions involved with mortality, particularly between children and parents, are incredibly difficult. I’ve seen all too many cases in which wishes were not made known in advance, causing a great deal of stress and pain on families. Having a current and thorough Advanced Health Care Directive in place can greatly lessen the emotional (and often financial) burden placed on loved ones, caregivers and health care providers.

For the latest information on Advanced Health Care Directives, follow our estate planning blog, *Altman Speaks*.

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