

Understanding the terms of healthcare directives

Estate planning experts usually cite the need to include advance healthcare directives in a comprehensive estate plan. But there's often disagreement about the legal names given to those directives and their optimal use, depending on one's jurisdiction.

In any event, regardless of what they're called in the state where you reside, it's important to create these documents and keep your family in the loop. Let's take a closer look at a few healthcare directives.

Healthcare power of attorney

Comparable to a durable power of attorney that gives an "agent" authority to handle your financial affairs if you're incapacitated, a healthcare power of attorney (or medical power of attorney) enables another person to make healthcare decisions for you. This is also called a healthcare proxy in some states.

Choosing an agent is critical. You probably can't anticipate every situation that might arise — virtually no one can — in which it's likely that someone will have to make decisions concerning your health. Therefore, the agent should be a person who knows you well and understands your general outlook. Frequently, this is a family member, close friend or trusted professional.

Remember to designate an alternative and successor in the event your first choice is unable to do the job.

Living wills

A living will is a legal document that establishes criteria for prolonging or ending medical treatment. It indicates the types of medical treatment you want, or do not want, in the event you suffer from a terminal illness or are incapacitated.

This document doesn't take effect unless you're incapacitated. Typically, a physician must certify that you're suffering from a terminal illness or that you're permanently unconscious. Address common end-of-life decisions in your living will. This may require consultations with a physician.

The requirements for living wills vary from state to state. Have an attorney who's experienced in these matters prepare your living will based upon the prevailing laws in your state.

DNRs and DNIs

Despite the common perception, it's not a legal requirement for you to have an advance directive or living will on file to implement a "do not resuscitate" (DNR) or "do not intubate" (DNI) order. To establish a DNR or DNI order, discuss your preferences with your physician and have him or her prepare the paperwork. The order is then placed in your medical file.

In fact, even if you already have a living will spelling out your preferences regarding resuscitation and intubation, it's still a good idea to create DNR or DNI orders when you're admitted to a new hospital or healthcare facility. This can avoid confusion during emotionally charged times.

POLSTs

Finally, in some states, an estate plan may include a document known as a "physician order for life-sustaining treatment" (POLST) or a similar name. A POLST may be used by a person who has already been diagnosed with a serious illness.

This document doesn't replace your other directives. Instead, it complements other directives to ensure you receive the treatment you prefer in case of an emergency. Your physician completes the form based on your instructions and personal conversations.

The POLST is posted by your bedside if you're hospitalized. If you're residing at a healthcare facility, it should be prominently displayed where medical or emergency personnel can easily view it.

Putting directives into action

Advance directives must be in writing. Each state has different forms and requirements for creating these legal documents. Depending on where you live, you may need to have certain forms signed by a witness or notarized. If you're unsure of the requirements or the process, contact an attorney for assistance.

Review your advance directives with your physician and your healthcare agent to be sure you've accurately filled out the forms. Then let all the interested parties – including your attorney, physician, power of attorney agent and family members – know where the documents are located and how to access them.

Revise as needed

Finally, be aware that advance directives aren't written in stone. You can revise them at any time. Just be sure to follow your state's requirements for revisions. Contact your estate planning advisor and attorney with questions.

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