Making sense of it all: Which health care decisions are right for you?

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Health care directives are legal documents outlining a person's preferences regarding medical treatment should that person be unable to communicate or make an informed health care decision.

Documents specifying health care decisions have different names, such as advance medical directive, living will or declaration, medical power of attorney or proxy, and patient advocate designation.

Oftentimes, the living will and the medical power of attorney are combined into a single form and then referred to as the advance medical directive.

According to legal personnel, combining the forms is preferred, because it is the best way to protect interests.

A living will allow people to state what kinds of life-prolonging treatment they want or do not want if diagnosed as having a terminal condition and are unable to communicate their wishes.

Medical powers of attorney, or appointments of agent, are documents that name an "agent" or "proxy" to make medical decisions on a person's behalf should the person be incapable of making or communicating health care decisions.

Another consideration is a springing power of attorney to designate an agent to make non-medical decisions, such as decisions regarding financial, business, and real estate matters.

A springing power of attorney becomes effective only upon the incapacitation of the principal; once the principal is determined to be disabled, mentally incompetent or otherwise incapacitated, the power of attorney "springs" into effect.

Similar to medical directives, a springing power of attorney normally contains language that requires at least one doctor to examine and confirm the principal's disability. The principal must sign the document granting the authority and the principal must be mentally competent at the time of the signing in order for the document to be legally binding.

Powers of attorney can be revoked or cancelled at any time by the principal prior to incapacitation and all powers of attorney terminate upon the death of the principal.

If a patient can't make an informed health care decision and has not named an agent, the law assigns a decision-maker who may be left to guess about the patient's wishes regarding treatment.

Treatments that medical directives commonly address are resuscitation (CPR, drugs or electric shock to restart a person's heart or breathing), intravenous feeding, and the use of machines, medicines and other artificial means to sustain life. It can also include the decision to donate organs or tissue and for what purposes.

Health care directives do not necessarily have to contain medical terms; people can state their wishes in their own words to describe important values and beliefs, including religious beliefs, which help others make appropriate health care decisions on their behalf.

Unless stated in the directive, medical staff will provide medication as needed for pain to make patients comfortable.

A health care decisions agent must be an adult. He or she does not need to live in the same state as the declarant, or person issuing the directive. However, the agent should be available and aware of the declarant's wishes.

Declarants can appoint another agent if the first choice is unavailable.
Legal representatives discourage personnel from appointing agents to act jointly because it often results in conflict, delayed decision-making or an inability to make any decision at all.
An agent will not be able to make health care decisions until at least two physicians determine the declarant is incapable of making such decisions. Once a patient, or declarant, is able to communicate, the agent no longer has authority to make health care decisions.
It's important for people to understand they do not need attorneys to draft a health care directive.
In Virginia, free forms and additional information are available at vsb.org/sections/hl.
Each state's statutes about living wills are available from estate.findlaw.com/estate-planning/.
Medical directives and powers of attorney may be obtained from the Fort Belvoir Legal Assistance Office on a walk-in basis.
For more information, call 703-805-2856