END OF LIFE DECISIONS

A Planning Checklist

Health Care Decisions. Financial Management Decisions. Inheritance/Asset Transfer at Death Decisions.



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Medi-Cal Planning for Long-Term Care – Elder Law – VA Benefits for Seniors – Trusts, Wills -Incapacity Issues – After Death Administration

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MEDICAL SUPPLIES FOR CARE AT HOME SINCE 1957



Food For Thought...

Most people don't like to think about their own death. So, it is easy *NOT TO PLAN*.

As a result, important matters could by made by estranged family members, doctors, or sometimes even judges, who may know very little about what you would prefer.

Health Care Decisions.

Financial Management/Incapacity.

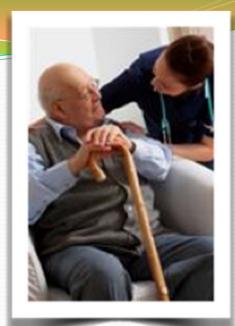
Inheritance/Transfer On Death.

"Easy" process or "difficult"?
- That's up to you.



Healthcare Decisions...

Due to advances in medical science, the dying process is often prolonged, people can be kept alive without quality of life, and there is more "incapacity" among those who are ill.



End of life issues have taken center stage since the 1970's. Many people have come before us, and fought their way up through the court system to for End of Life rights.

These battles were expensive, painful for the families, and took years in the courts.

As a result of their efforts and sacrifices, each of us now have END OF LIFE RIGHTS that we did not have before.

Health Care Decisions

A Brief History: RIGHT TO REFUSE TREATMENT 1975 New Jersey Supreme Court: In Re: Quinlan

Joseph Quinlan sought a court order to have his daughter, Karen, who had long been in a persistent vegetative state (PVS), removed from a respirator.

The New Jersey Supreme Court held that, under both the United States and New Jersey constitutions, *Karen had the right to decline medical treatment.* Reason: Personal Privacy Rights.



Since this important court decision, various state courts struggled in approximately 130 cases with the "right-to-die" issue, arriving at various conflicting decisions.

A Brief History: RIGHT TO DIE

1990 U.S. Supreme Court Case: Cruzan v. MO Dep't of Health

After a car accident, Nancy was in a persistent vegetative state. She had a feeding tube. Her parents fought to have the tube removed.



Ultimately, the Court recognized a competent person's constitutionally protected right to refuse life-prolonging treatment (including hydration and nutrition).

In the case of incompetent persons, a state could adopt a standard that required "clear and convincing" proof of a person's preferences. The court ultimately ruled that there was sufficient evidence that *Nancy would not want to be kept alive.*

How Do We Meet This "Clear and Convincing" Evidence Standard?

Under federal law, people have the right to state their preferences, and name a "PROXY" or "AGENT" to make decisions for them. This legal document - it is known by different names in different states.

- Advance Health Care Directive
- Power of Attorney for Health Care
- Living Will



Details About Health Care Documents.

You must legally be an adult (18 years old in most states) to make a valid document directing your health care.

You must also be of sound mind -- that is, able to understand what the document means, what it contains, and how it works. In the document, you...



CHOOSE: Immediate or Springing

CHOOSE: Your AGENT (Proxy) decision maker.

CHOOSE: Your HEALTH CARE and END OF LIFE preferences.

Where Do You Get This Important Health Care Document?

The Attorney handling your estate planning will prepare...

The Internet (make sure its appropriate for your state)

Hospitals often have "generic" forms.

"Five Wishes" (www.agingwithdignity.com):

- Good in 42 states. \$5.00

Remember about HIPAA (privacy) release.

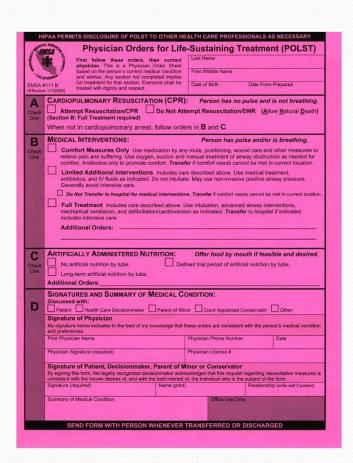
POLST

Physicians Order for Life Sustaining Treatment

A POLST form is generally only appropriate for people who are in the final year of life, or suffering from an advanced stage terminal illness or an illness from which they are not expected to recover.

It is complementary to an Advance Directive (POA for health care).

The POLST form must be signed by a physician or medical professional. If a medical professional has not signed the form, it is not legally binding.



Physician Assisted Suicide:

Physician-assisted suicide is legal in five U.S. states.

It is an option given to individuals by state law in Oregon, Vermont, Washington and California.

It is an option given to individuals in Montana via court decision.

Individuals must have a terminal illness as well as a prognosis of six months or less to live.

Physicians cannot be prosecuted for prescribing medications to hasten death.



Financial Management. Valid only while you are alive.

Power of Attorney for Financial Management

Appoint an Agent who can:

Deal with insurance companies, banks, financial institutions.

Pursue lawsuits, defend lawsuits.

Deal with Pensions, credit cards, etc.

Handle long-term care issues, employ caregivers, etc.

Handle eligibility for VA benefits, Medicaid, and other public benefits. Note: Must specifically include such powers.



Inheritance Issues.

Asset Transfer Plan: What is Yours?

Joint Tenancy

Beneficiary Designations

- IRA's, Life Insurance, Annuities, etc.

Revocable Trust

- "Contract" to control your assets

Probate Court
Last Will and Testament
Irrevocable Living Trust
Nothing



IMPORTANT CHECKLIST:

1. Healthcare Decisions (Healthcare Directive)

- Name your Agents, your preferences, when effective, etc.
- HIPAA Release. (Privacy of health information.)
- Is a POLST appropriate?
- Does your state offer physician assisted death options?

2. Financial Decisions and Management (Power of Attorney)

- Name your Agents. What powers will you include?
- Public Benefit planning (Medicaid)

3. What is Your "Asset Transfer Plan"?

- Will, Trust, Joint Tenancy, Beneficiary, Nothing?
- What is the Probate Process like in your state?



Important Websites:

www.themcnamaralawfirm.com www.VAbenefits4seniors.com www.help4srs.org www.canhr.org

Thank You!

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