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Estate Planning Basics

How to determine your own end-of-life treatment

Do you want to increase the likelihood that your wishes for end-of-life care will be honored by you family, friends and medical providers? If so, you should have a living will and a health-care power of attorney. These are legal documents that you use to make known your wishes.

Your living will informs your healthcare providers and your family what your desires for medical treatment are in the event you are not able to speak for yourself. The living will is utilized if you no longer have capacity to make decisions, have a terminal condition, or become permanently unconscious. A living will generally describes certain life prolonging treatments. You indicate which treatments you do or do not want used. According to the Kentucky Living Will Directive, you choose whether you do or do not authorize that a treatment be withheld or withdrawn and you direct that you be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain. Also, according to the Kentucky Living Will Directive, you choose whether you do or do not authorize artificially provided food, water, or other artificially provided nourishment or fluids be withheld or withdrawn. A living will does not become effective unless you are incapacitated and unable to make your own decisions. Until that time, you will be able to say what treatments you do or do not want.

For example, if you have a heart attack but otherwise do not have a terminal illness and are not permanently unconscious, your living will does not have any affect. A living will is only used when your ultimate recovery is hopeless.

For situations where you are incapacitated and therefore not able to speak for yourself, but your health is not so dire that your living will becomes effective, you should have a health-care power of attorney. A health-care power of attorney is a legal document that gives someone else the authority to make healthcare decisions for you in the event you are unable to do so. This person is often called a medical surrogate. The person you designate to make healthcare decisions on your behalf is supposed to consider what you would want, so be sure to talk with that person about what you want. Although it may be a difficult conversation, you are asking someone to take on a great burden for you. Letting him or her know what you want will lessen that burden.

To make your wishes clearly known, be sure to have advanced care directives in place. If you do not have these directives, it would be wise to seek legal counsel and obtain them. Be sure you update these documents often as your thoughts on end-of-life care may change with time.

Neither of these documents will do you any good if no one knows about them. You must talk to your doctor and the person you designate as your health care surrogate. Discuss with your doctor the types of end-of-life medical treatment you want. He or she can help you by answering questions you may have concerning certain treatments. Once you have decided what it is that you do or do not want, make your wishes known to your doctor and your family. Discuss these matters before a medical crisis occurs. If your named surrogate hesitates to carry out your wishes, think about naming someone else. Let your family know how serious you are about your intentions being fulfilled.

For questions about living wills or health care powers-of-attorney, you should contact a qualified elder law attorney.

These materials are for general informational purposes only. Consult an attorney for legal advice about estate planning and determining end-of-life treatment.

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