

October 12, 2013 /**24-7PressRelease**/ -- Making your healthcare wishes known with an advance directive

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When you think about your estate plan, you may think that since you have a will or trust in place to distribute your assets, you have completed your estate plan. However, wills and trusts are only part of a comprehensive estate plan. In order to consider your estate plan truly complete, it is necessary to put provisions in place that will address what happens if you become incapacitated after a serious illness or unexpected injury.

In Alabama, these documents are called advance directives. These types of documents inform your physician and family about the type of medical care that you would like to receive if you are unable to make (or communicate) your decisions regarding your care.

All Alabama residents who have reached the age of 19 and are able to make decisions for themselves are entitled to set up an advance directive. An advance directive is not typically a single document, but a collection of several documents that address different contingencies.

Living wills

Living wills are an important component of a comprehensive advance directive. This type of document addresses what kind of medical treatment that you would like to receive if you are unable to express your wishes. For example, a living will would allow you to communicate that you do not want your physicians to take measures to artificially prolong your life (e.g. put you on a respirator or life support machine). On the other hand, you could also say that you would like your doctor to take all measures to save your life, even if they believe that you would not recover.

By making your wishes known, living wills can make it significantly easier on your loved ones, as they do not need to guess what treatment you would want during what is a stressful and anxious time for them.

Proxies and powers of attorney

As living wills are static and cannot address every possible medical situation that may arise, it is important to supplement it. One way to do that is by executing a healthcare proxy. This document allows you to appoint a person of your choosing to make healthcare-related decisions on your behalf.

The healthcare proxy only goes into effect in the event that you are unable to make (or communicate) your healthcare decisions. The person that you designate as proxy must follow what you provided in your living will. However, if a situation arises that is not addressed by your living will, your proxy can make a decision independently, but may use your living will as a guide in determining what you would have wanted.

In addition to healthcare proxies, it is important to provide for the management of your finances and assets in the event that you are incapacitated. Since a healthcare proxy does not address this, it is important to execute a power of attorney granting someone you trust (called your agent or power of attorney) the power to manage your finances in the event of your incapacitation.

When drafting a power of attorney, you have control about how much authority you would like to grant your agent. For example, you can specify that your agent can make all decisions that you would be able to make or limit their decision making authority to certain aspects of your affairs.

More importantly, by implementing your own healthcare directive and power of attorney, you permit your loved ones to avoid the delay, complications and significant expenses otherwise required of your spouse or surviving family having to go through and remain under the local probate court proceedings and ongoing supervision.

In this manner, your power of attorney avoids the delays and significant legal costs and fees associated with a court-appointed power of attorney, who is generally referred to as a "conservator" who would also have to pay an annual surety bond. The healthcare directive and power of attorney instruments could easily save your family expenses upward of \$5,000, and more importantly, ensuring that your financial affairs will not become a matter of public record.

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Written by Australian Business

An estate planning attorney can help

Advance directives are an important aspect of any estate plan. If you have not yet included these documents as a part of your estate plan, consult an experienced estate planning attorney to ensure that your wishes are carried out.