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Start Planning ▶

Avoiding Problems in Selecting an Agent for Your

Medical Decisions

by Stephan J. Lipskis, Esq.

Who makes medical decisions for you when you are unconscious or incapable of making them on your own? Frequently, an alternative decision-maker or "Medical Agent" is needed for those with diminishing mental capacity or individuals under anesthesia. Determining your preferred Medical Agent and the scope of authority given to that agent are of critical importance to ensure your healthcare wishes are followed. This article discusses three steps to effectively plan for Medical Agent succession and common mistakes to be avoided.

STEP #1 Consider Who You Want as Your Medical Agent and How Much Discretion to Give Your Agent.

Planning who you want to make medical decisions on your behalf is not as simple as it may appear. A spouse or child may be ill-equipped emotionally to deal with end-of-life decisions. Alternatively, a proposed agent may be difficult to reach in the event of a crisis. Thorough discussion of your options and concerns with an attorney who understands the implications of this authority will help sort through available options and determine which agent or agents are preferred.

Medical decisions are, by their very nature, the most personal decisions that can be made. They address the integrity of your body and your very life. Accordingly, a thorough discussion with your physician and an attorney should be had as to what restrictions you want placed on your Medical Agent's authority. Absent effective instructions, your Medical Agent may end up making a decision that is not what you desire. The instructions given to Medical Agents may address religious objections to certain treatments, personal beliefs regarding end-of-life care, and an array of other matters that need to be discussed in depth with spiritual, medical, and legal advisors (in that order).

STEP #2 Execute Planning Documents!

In order to have an effective Medical Agent, an individual must execute a document that will be recognized under state law. Hospitals and medical facilities are increasingly working with admitted patients to execute documents, when possible. In executing these documents at the hospital, individuals are often left with insufficient time to consider options and ask appropriate questions of legal and spiritual counsel, and may not fully understand the repercussions of naming a Medical Agent.

Avoiding Problems in Selecting an Agent for Your Medical Decisions (cont'd)

Furthermore, the individual may feel pressured to name someone who is with them at the hospital rather than a more appropriate individual. Planning ahead and executing the documents removes mistakes that are made due to urgency and also prevents further procrastination.

An "Advance Medical Directive" is the preferred document for naming your Medical Agent, because it is a combination of two important documents, a "Living Will" and a "Healthcare Power of Attorney". The Living Will portion of the Advance Medical Directive gives specific direction as to care that should be made available or should be specifically withheld. These decisions are effective, even if your Medical Agent is not able to act. Accordingly, the Living Will portion directs medical professionals caring for the individual as well as the Medical Agent. The Healthcare Power of Attorney portion of the Advance Medical Directive names the Medical Agent (or Agents) empowered to make decisions under specified conditions and may even provide for standby Medical Agents, if the first choice is unavailable. Also, contact information is provided so that the medical staff can reach the individual's agent. The additional clarity provided by Advance Medical Directives allows for a Medical Agent to better understand the scope of their authority and prevents unnecessary delays in care or undesired treatments because treating medical staff know whom to contact.

STEP #3 Communicate Your Wishes

Occasionally, individuals mistake completing documents with completing their planning. An Advance Medical Directive should be discussed with the chosen agents and should always be recorded at your primary care physician's office and in the local hospital system. Modern technology allows for an individual's Advance Medical Directive to be accessed whenever and wherever it is needed, so long as it has been recorded in the appropriate registries. Registries are now even available to store Advance Medical Directives via smartphone app.

CONCLUSION

Our office has recently seen complications arise from do-it-yourself Advance Medical Directives and those done at the hospital. While completing medical agency documents in those situations is not always the wrong choice, it sometimes can lead to unintended complications. Furthermore, the need for thorough thought in this type of planning requires not only time (which is unavailable in the hospital setting) but also expertise (which is unavailable in the do-it-yourself setting). Should you be concerned about whether your documents appointing your Medical Agent read as you believe them to, please contact our office to arrange a meeting to review your documents.



Behind The Scenes with Rescue Canines

Hook Law Center: Kit Kat, what can you tell us about canine rescuers when they return home from an assignment?

Kit Kat: Well, these heroic dogs are much like other dogs. They live with their handler in a home, and they slip back into a normal life, unless they are in training or on a mission. One such dog is names Pryse, who lives in Lynchburg, VA with her handler, Ron Sanders. She is a 6-year old yellow Labrador retriever. Both are part of the Fairfax County (VA) urban search and rescue team. Their latest assignment was to help out after the Nepal earthquake which occurred on April 25 and killed more than 8,000 people. Pryse located a little boy who had been trapped under rubble for 5 days. When Pryse went back to the rubble after finding the boy, she did not find any other survivors.

Mr. Sanders keeps Pryse in top condition by regular training and providing a loving home. Often, she and Mr. Sanders practice their rescue skills at a training site on the grounds of an abandoned prison in Lorton, VA. Sanders says of Pryse, 'She's fast, she's agile, and she's doing what she was made to do. We want them to rely solely on their noses, but it takes a lot of training and discipline too. You have to set boundaries, get rid of distractions and develop a strong personal bond so the dog is always focused on you and the job.' Sanders became interested in training canines for rescue when a friend asked him to "babysit" one of the rescue dogs.

Back at home, Pryse lives with Sanders, his family, and 2 other dogs. Tomo is a 12-year old German Shepherd, who is now retired from rescue work. The other is named, Roxy, a 6-year old Belgian Malinois, who did not work out for search and rescue. She was too high strung. However, Sanders' gentle touch has helped her to calm down, and she is a wonderful pet. He says about the dogs, 'It becomes a way of life, and they become part of your family.'

(Pamela Constable, "After the earthquakes: Here's what the Nepal rescue dogs do when they're at home," [The Washington Post](#), May 25, 2015)



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Upcoming Events

- **June 18 & 30, 2015** – The HLC Monthly Seminar for **June** is **Securing Your Retirement: Transforming Social Security Into a Winning Retirement Strategy**. The seminar is scheduled at 10 a.m. on Thursday, June 18, 2015 in Suffolk and at 10 a.m. on Tuesday, June 30, 2015 in Virginia Beach. To register and reserve your seat, please call 757-399-7506 and ask for Debbie or register online at www.hooklawcenter.com/seminars.
- **June 25, 2015** – Andrew H. Hook will be speaking to a group at the Virginia Beach Psychiatric Center in Virginia Beach, Virginia.
- **August 12, 2015** – Andrew H. Hook will be speaking to a group at Maryview Hospital in Portsmouth, Virginia.
- **August 21, 2015** – Andrew H. Hook will be speaking to a group at DePaul Hospital in Norfolk, Virginia.
- **August 27, 2015** – Andrew H. Hook will be speaking to a group at Mary Immaculate Hospital in Newport News, Virginia.



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