

## Advanced Directives – A Way To Speak For Yourself When Your Voice Can Not Be Heard

By Julie Dialessi-Lafley, Esq.

Terminally ill people often add advanced directives to their Health Proxies to inform medical personnel about what kind of care they want for themselves in medical emergencies and at different stages of their lives. Since Living Wills are not statutorily recognized in Massachusetts, Do Not Resuscitate (DNR) and Do Not Intubate (DNI) documents are extremely important parts of an individual's health care planning and Health Proxy in the Commonwealth. These documents speak when one is incapable of voicing his or her own wishes as to medical care and procedures, and they ensure that no extraordinary lifesaving measures are taken to prolong life when a certain quality of life cannot be assured. The degree of quality of life acceptable to an individual is a personal issue, so it is best considered by individuals on their own. More importantly, whatever the health care decision, it needs to be communicated in a way that it will be recognized and followed by health care providers.

It is important to understand that cardiopulmonary resuscitation (CPR) can be withheld under only two circumstances: (1) when CPR is judged to be of no medical benefit and (2) when an individual with an intact decision-making capacity or someone designated as the decision-maker, clearly indicates that CPR is not wanted. The first circumstance occurs when it is clear that there is no clinical benefit to CPR. The second circumstance depends on a previous decision made by the patient

These issues are complicated when tragedy strikes a healthy person who does not have a Health Proxy. Without advanced directives to guide medical personnel, it is mandated that all possible means be taken to preserve life. In emergency situations or when one lacks the necessary decision-making capacity, medical personnel must assume that the individual wants to stay alive regardless of the circumstances.

Medical personnel then look to family members for guidance, and steps must be taken to appoint a guardian who will assume decision-making responsibility.

A physician must consult with available family members to inform them of the likelihood of recovery, death, survival, and expected quality of life. The law recognizes a hierarchy of family members in determining who should be designated the official spokesperson. First, is a legal guardian responsible for health care decisions? Next, is someone designated as a Health Proxy, followed by a spouse, and then adult children (all in agreement, of course)? All close family members and significant others should be available to voice their concerns and attempt to reach a consensus. If no advanced directives are in place, the physician typically recommends guardianship to the family; then the physician must file a statement that harm will come to the patient if certain lifesaving techniques are not initiated. Family members must then petition the court for guardianship status and provide the appropriate medical documentation as prepared by the physician.

To prevent circumstances in which family members are forced to petition the court for guardianship, it is important for everyone to consider establishing a Health Proxy. This document ensures that individual wishes will be followed at a time when one is unable to communicate them and when family members are most stressed and emotionally charged.

Since quality of life issues and unique personal circumstances (i.e., a woman may add that she wishes to remain on life support to sustain a fetus) are considered when drafting a Health Proxy, emotional family members are alleviated of the task of making decisions under stress. It is recommended that individuals designated to make health care decisions as well as local hospitals have copies of the Health Proxy.

Advanced directives are often disregarded in trauma situations and in emergency rooms. Logically, the first priority of medical personnel is to sustain life. Individuals could address this issue by wearing a medical bracelet that would allow paramedics to honor a desire not to have CPR.

The circumstances under which an individual wishes to be resuscitated or intubated are best determined on a personal level. Advanced directives are an important addition to a Health Proxy. Not only will they ensure that one's wishes will be followed with respect to health care decisions, but they take the pressure off family members who may already be under tremendous stress. As Living Wills are not statutorily recognized in the Commonwealth of Massachusetts, Health Proxies, and when appropriate, DNR and DNI documents are the keys to retaining control of one's life and health care decisions at a time when it is difficult or impossible to communicate them. ■

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