

NOW IS THE TIME TO THINK ABOUT YOUR DEATH

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Birth is a joyous event and cause for celebration, but poor death, which is just as important a part of the life cycle, gets the short end of the stick.

Even though we are all going to die some day, this is a subject that many of us actively avoid. Granted, most of us hope to live to a ripe old age and experience life to the fullest, with one proviso - as long as we can remain healthy. But, therein lies the rub.

Most of us will die of heart disease, cancer or one of a variety of languishing diseases. Thus, with the exception of those who die swiftly of heart attacks and strokes, most of us will have a steady period of deterioration until we die. What an unpleasant notion this is to face, but what a profoundly important one.

There is not much we can do about warding off a languishing disease, aside from trying to lead healthy lives or seeking good medical care; however, there is a lot we can do to make sure that we receive the kind of care we want, even if we reach the point of not being able to advocate for ourselves. An advance health care directive is key. This is a legal document in which one can set out his or her preferences for end of life care; for example, opting out of the administration of artificial hydration or nutrition if death is imminent.

Even more important, however, is naming a surrogate or agent to carry out one's wishes. Without naming such an agent, a person may be leaving life and death decisions to people who may not understand what that person would have wanted for him or herself.

Having practiced in the field of elder law for the past 15 years, I had come to believe that general attitudes had taken a positive shift in the direction of people wanting to hasten, rather than prolong death when faced with imminent death. A recent encounter with a family, however, brought me to the stark realization that this is not always the case, and that when one has not made advance directives, the process of a family member's dying can be unnecessarily stressful and cause for family disharmony.

In this particular case, a very elderly man had suffered a severe stroke and was being kept alive on life support. One son contacted me and wanted to have his father removed from life support, but three of his four siblings disagreed. There was no health directive, and no surrogate had been named, so all five children shared equal footing as far as legal decision making.

The son who had contacted me was adamant that his father, who had prior to the stroke been a very independent man, would have wanted to be allowed to die, but the other siblings, driven by feelings of guilt, or fear, or something other than thinking about what their father would have wanted, dug in their heels. It even went so far as having an invasive surgery performed that would keep him alive for another week or two at the most.

The poor man finally died, after several weeks of being kept alive with a whole array of tubes, medical procedures, and even a surgery, all in the glaring sterility of hospital rooms. If this man had an advance health care directive, this all could have been avoided.

Maine law mandates that a person's health directive choices must be honored by the medical establishment and also allows one to name an agent to carry out these choices. There is a standardized and easy to follow statutory form that one can download at the Maine Hospital Association's Web site at www.themha.org/issues/advdirectivesform.pdf. To be valid, it must simply be signed in the presence of two witnesses.

So, take a moment to think about how you would like to see your own death play out, talk to your family members about it, and by all means, prepare your own advance directive form.

For more information about elder law, contact Kathleen Kienitz at 207-783-8500.

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