

ADVANCE DIRECTIVE FOR HEALTH CARE

Estate planning involves not only financial considerations but exploring options for health care as well. One document that should be considered with respect to health care is an Advance Directive for Health Care.

Prior to 2006, Pennsylvania's laws concerning health care and end-of-life directives were out of date. In November 2006, the Pennsylvania legislature enacted Act 169 which was designed to enhance the rights and abilities of individuals to control the fate of their health care. Through Act 169, lawmakers created a comprehensive set of laws governing health care decision making for incapacitated individuals. The act defined an Advance Directive for Health Care as a document by which a capacitated adult can legally document end-stage medical decisions for themselves should they become unable to do so. The document incorporates both a Health Care Power of Attorney and a Living Will.

What is the difference between a Health Care Power of Attorney and a Living Will? In a Health Care Power of Attorney, the "Principal," who is the individual creating the document, appoints another person as "Agent" to make health care decisions on the Principal's behalf if the Principal is unable to do so. Usually, these health care decisions do not concern end-of-life issues. A Living Will is a written document wherein an individual provides treatment instructions regarding the types of medical treatment or care the individual would like to receive or refuse at the end of life. The Living Will portion of the Advance Directive makes the individual's decisions known and helps minimize potential family conflict because the individual has stated his or her wishes, not those of family members.

With an Advance Directive for Health Care, the Agent is named to follow an individual's expressed wishes or decide a course of treatment if the individual hasn't chosen one. An Agent should have knowledge of available treatments, know the individual's wishes, and be assertive enough to carry them out. It is important for the Principal to discuss their wishes with the Agent, be very clear on views and opinions about treatment options, and be clear about any concerns of either the Principal or Agent.

Although the execution of an Advance Directive for Health Care can be an emotional endeavor, it is necessary document to execute to ensure that your medical wishes are followed even if you become incapacitated. If you do not have an Advance Directive for Health Care or have concerns regarding your existing document, then you should consult an Elder Law Attorney to discuss your options and concerns.

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