ADVANCE DIRECTIVES –

DO I WANT/NEED THEM?

LEGAL DISCLAIMER: Advance Directives information in this lesson is not designed for legal advice and does not tell everything one needs to know about end-of-life issues. You can locate your State Bar Association at http://www.abanet.org/barserv/stobar.html.
More than 80% of people die in a hospital or nursing home. Do I want and/or need advance directives? It is a good idea to plan ahead, and it might be beneficial to hold a family meeting. Having this conversation before a crisis occurs will help lessen confusion and reduce the possibility of conflict among family members if a crisis occurs. These are forms that will tell in writing what care you want in an emergency situation or at the end of your life.

Advance directives are: Durable Power of Attorney for Health Care, Living Will, and Do Not Resuscitate. These may be changed or revoked at any time; they should be reviewed and updated periodically.

**Durable Power of Attorney for Health Care** is one type of advance directive. With this document, you will name the person authorized to make your health care decisions for you. This person is then sometimes called your “agent”. The document goes into effect when you are not capable of making health care decisions for yourself.

Your physician, in some states, two physicians must determine that you are unable to make decisions for yourself.

There are some private companies on the Internet that can store this kind of information, usually for a fee.

These forms may be changed at any time and should periodically be reviewed and/or updated. Revoking a form can be done by tearing it up, burning it, shredding it or destroying it in some other fashion. To revoke it verbally, the witness must sign and date a document that says you made a statement describing your intention to revoke the (name the document). You will go through the same procedure that you did the first time and will need to give new forms to everyone that has a copy of the first form.

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Your forms must be in writing, dated, and signed by you, or by someone else for you in your presence and at your direction. Two or more witnesses are required, and they must be at least 18 years of age. A witness may not be:

1) Same individual who signed for you if you were unable to sign for yourself

2) Related to you by blood or marriage

3) Entitled to your estate

4) Directly responsible financially for your medical care.

A second option is to have the signature done before a notary public.

Do not keep the original copy in a bank safety deposit box. Family members may not be able to access it if there is a need.

Make sure your doctor has a copy of all forms so he can enter them as part of your medical records. You may also want to give a copy to some loved ones, the local hospital and your lawyer (if you have one). You may want to consider placing a note in your wallet of what forms you have and where they can be found. A copy of each form may be kept in the glove box of your automobile.

Your agent has the authority to make decisions about admitting you to medical facilities or institutions. They may also make decisions on your treatment and who may or may not treat you. She/he may decide about organ donation, autopsy and what to do with your body should death occur.

Living Wills are another type of advance directive. You may write down what type of care you want or do not want in certain situations. Even if you cannot talk or make decisions, the Living Will lets your physician and family know what kind of care you desire.

In a living will you make detailed instructions on what type of care you want in certain situations, and what type of care you don’t want. Stating what you don’t want can be as important as what you do want.

A living will comes into effect after you have been diagnosed and certified in writing to have a terminal condition by two physicians. These physicians must have personally examined you, and one must be your attending physician.
Examples of the type of care identified are whether to have the heart restarted if no heartbeat is evident, to have nutrition and hydration withheld and whether to use a ventilator to sustain life. No one document can allow for every situation.

**Do Not Resuscitate (DNR)** is another advance directive. If a healthy person has a DNR directive, it may prevent him from receiving medical care needed to save his life, depending on how it is written.

When a DNR is in place, no steps can be taken to restart the heart or breathing. Usually a DNR is put into place by individuals who are ill, injured or by frail elderly, not by those who are in reasonably good health.

A DNR order may be written by your physician as part of the admittance process into a hospital or care facility for your medical records. You may be given a bracelet or medallion that will identify you and your wish to not be resuscitated.

The DNR directive provides coverage when living in your own home. You may wish to not be resuscitated if you are receiving end-of-life care at home such as hospice. A health care provider is not liable, guilty of a crime or of unprofessional conduct if a DNR order is in place. They simply are honoring in good faith the wishes of the person that is in their care.

Talking with a trusted friend, a family member, or pastor may help when thinking through this kind of decision. This conversation might be a difficult one but it can be a very important one.

**Serious decisions** come when doing Durable Power of Attorney for Health Care, a Living Will and Do Not Resuscitate orders. You may want to talk with your physician, your family, your clergy or even your attorney prior to making your final decision. These forms are used where there is illness, injury and death so discussing the options in advance will let you receive the care that you desire.

**Forms** for Durable Power of Attorney for Health Care, Living Wills and Do Not Resuscitate are available at the health department, state office on aging, doctor’s office, your attorney’s office, and online. In most states you must be at least 18 years of age to have signed forms of advance directives. Some states offer “fill-in-the-blank” forms that you can complete on your own. These are legal documents.