

INFORMATION ON HEALTH CARE DECISION PLANNING

INTRODUCTION:

Planning for and making arrangements for end of life decisions is something that most of us do not want to think about - after all, we are alive and kicking. Why plan for an event we will not there to orchestrate or enjoy? Furthermore, what should the plan look like? Who do we trust to carry out the plan? Who would want the task? These are some of the questions we ask or would ask ourselves if we gave it any thought.

But stop for a minute – some of the most important decisions you will make will be made at the end of your life. Therefore, we need to carefully consider how and by whom those decisions should or will be made. Careful reflection, in consultation with family and close friends will help in formulating and memorializing your wishes and desires. In making a plan, carefully consider your values, which is another way of recognizing your religious, cultural, social and medical elements in plans you choose to make.

THE LEGAL FRAMEWORK

The legal framework for advance health care decisions is set forth in California Probate Code §§ 4600-4806. These provisions define the term: “*a health care decision.*” A health care decision is any decision made by a patient or a patient’s agent, conservator, or surrogate, regarding the patient’s health care, including the following:

- Selection and discharge of healthcare providers and institutions;

- Approval or disapproval of diagnostic tests, surgical procedures and programs of medication, and
- Directions to provide, withhold, or withdraw artificial nutrition and hydration and all forms of healthcare, including cardio-pulmonary resuscitation.

ADVANCE HEALTH CARE DIRECTIVE (“AHCD”)

An AHCD includes both an individual health care instruction and a power of attorney for health care. An individual health care instruction (“IHCI”) is a new concept which describes a patient’s ability to make written or oral or written directions for his or her own health care without naming an agent. The power of attorney (“PAHC”) is a written document designating an agent for health care decision-making. The former, is most useful where a client does not have family/friends able or willing to serve as agent, or where a senior has outlived family or friends.

The PAHC is the most effective document by which you can make well-advised arrangements in the event of incapacity. It allows for specific and general directions to an agent in making a broad range of future health care decisions. The document may also include instructions for personal care, and grant an agent authority to determine where you will live, provisions of meals, transportation, visits and the like.

Properly designed, the PAHC can avoid the need for a conservatorship and ensure that your preferred decision-maker is in charge of your most personal matters.

The power of the designated agent can be limited by the PAHC itself. However, if no limitation is provided, the authority of the agent become effective only on a determination that the principal lacks capacity and ceases to be effective on a determination that the principal has regained capacity.