HealthcareSource Contingent Talent Management℠

Advance Directives

Core Competency Inservice

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Introduction

Federal law gives every competent adult, 18 years or older, the right to make their own health care decisions, including the right to decide what medical care or treatment to accept, reject, or discontinue.

By law each individual patient has the right to be educated in terms they can understand about the nature of their illness, general nature of proposed treatments, risks of failing to undergo these treatments, and any alternative treatments or procedures that may be available

The Patient Self-Determination Act (PSDA)

The 1990 Patient Self-Determination Act (PSDA) encourages every competent adult of sound mind to decide what type of medical care they want in case they become incompetent and are unable to voice their health care decisions. These preconceived decisions are called advanced directives.

The PSDA requires any health care facility receiving funding from Medicare or Medicaid to:

- Give patients information on their state laws about their rights to make decisions about their care
- Find out if patients have an advance directive
- Recognize the advance directive and honor the patient's wishes
- Never discriminate against patients based on whether they have filled out an advance directive or not

The PSDA recommends that everyone create an advanced directive, but no person is required to create an advanced directive. In the event that no advanced directive was made, and a patient becomes unable to make health care decisions the family, or next of kin, become the health care proxy.

What are Advance Directives

Advance directives are documents, signed in advance, which states a person's choice about medical treatment, or names someone to make decisions about medical treatment if they cannot make their own decisions.

Types of Advance Directives

The most common types of advance directives are the **Living Will** and the **Durable Power of Attorney for Health Care** (also known as the **Medical Power of Attorney**). There are many advance directive formats. Some follow forms outlined in state laws, others are created by lawyers or even the patients themselves. State laws and courts decide whether these documents are valid.

The Living Will

A living will be a written, legal document that spells out medical treatments you would and would not want to be used to keep you alive, as well as your preferences for other medical decisions.

The Living Will should address a number of possible end-of-life care decisions, such as:

- The type of medical treatment a person would accept or refuse
- Under what conditions an attempt to prolong life should begin or end
- Pain management
- Comfort or palliative care
- Dialysis
- Organ and tissue donation
- Donating your body to science
- Feeding tube, IV fluids, and TPN
- Mechanical Ventilation
- Do Not Resuscitate and do not intubate

If a person can't speak for themselves a living will helps the attending physician and family understand what interventions the person does or doesn't want done to prolong life in the event of a terminal illness. If so, stated it can allow doctors to discontinue life prolonging treatment in the case of an incurable illness or a permanent vegetative state (permanent brain damage). If a person has hope of recovery the living will generally does not apply.

The living will is a formal legal document that must be in writing. Each state has different forms and requirements for creating legal documents. Depending on where the patient lives, the form may need to be signed by a witness or notarized. Spouses, potential heirs, doctors caring for the patient, or employees of the healthcare facility are usually not allowed to witness the living will.

Patients may revoke (end or take back) a living will at any time. A few states will automatically void the living will after a certain number of years.

The living will generally applies only when a person is unable to speak for themselves and is terminally ill or permanently brain dead. It also only gives written instructions about certain things that might happen, but it does not cover every healthcare situation that could arise. A living will does not include choosing an agent or proxy to make decisions or ensure that wishes are carried out.

Durable Power of Attorney for Healthcare

A durable power of attorney for healthcare is a legal document, signed by a competent adult (the principal), designating a proxy (agent) to make healthcare decisions for them ONLY if the principal becomes unable to do so. The proxy can speak with doctors and other caregivers on behalf of the patient and make decisions according to what the patient would want if the patient is unable to do so for themselves. The agent chosen would decide which treatments or procedures the patient would want only in the event that the patient becomes unable to

do so. If the patient's wishes in a certain situation are not known, the agent will decide based on what they think the patient would want and what they consider to be in line with the patient's wishes.

The agent should be someone knowledgeable about your wishes, values, and religious beliefs, and in whom you have trust and confidence. In the event your agent does not know of your wishes, that agent should be willing to make health care decisions based upon your best interests. The law does not allow the agent to be a doctor, nurse, or other healthcare provider to the patient.

State laws that allow a proxy (agent) to be chosen usually to require that the request be in writing, signed by the person choosing the proxy (the principal), and witnessed. In many cases, the proxy also signs the document. A durable power of attorney will go into effect immediately once the document is signed. The durable power of attorney is effective indefinitely unless it is revoked, or the principal becomes competent. The principal can revoke the durable power of attorney or choose another agent at any time.

"Do Not Resuscitate" Orders

A hospitalized patient can add a Do Not Resuscitate (DNR) order to their medical record. This is done when the patient does not want the hospital staff to try to revive them if their heart or breathing stops. A hospitalized patient can also add a Do Not Intubate order. This is done when the patient wants cardio pulmonary resuscitation if their heart stops beating but does not want to be intubated and placed on a ventilator. A patient can have a DNR or DNI order without making a living will or appointing a medial power of attorney. Some hospitals require a new DNR/DNI order each time a patient is admitted. An In- patient DNR/DNI order is only good while the patient is in the hospital. A DNR or DNI order can be revoked by the patient at any time. Even if a patient has a living will which include preferences regarding resuscitation and intubation, it is still a good idea to establish DNR or DNI orders each time they admitted to a new hospital or health care facility.

An Out of Hospital Do Not Resuscitate (DNR) order is used outside of the hospital. The Out of Hospital DNR is intended for Emergency Medical Service (EMS) teams who answer 911 calls. Even though families expecting a death are advised to call other sources for help, when the patient worsens, a moment of uncertainty sometimes results in a 911 call which can result in unwanted measures that prolong life. The Out of Hospital DNR must be signed by the patient and physician for it to be valid. The order offers a way for patients to refuse the full resuscitation effort in advance, even if EMS is called.

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