



End of Life

End of Life – Legal Issues

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End of Life – Legal Issues

General Issues

- Advance planning is a process
- Everyone needs advance planning
- Discussing end of life issues with family members and doing advance care planning is critical
- Ethics consults involve lack of planning
- Advance planning eases burden on family





End of Life – Legal Issues

General Issues

- **PVS- A clinical condition of complete unawareness of the self and environment**
- **Coma- unarousable, sleep-like conditions**
- **ANH -Artificially-provided Nutrition and Hydration**
- **Life sustaining treatment – respirator, ventilator, dialysis, chemotherapy, pacemakers**





End of Life – Legal Issues

Capacity –

- mental capacity is assessed by a health care professional
- competency is a legal determination made by a court





End of Life – Legal Issues

Nutrition & hydration

- **Presumptions (Oklahoma Hydration and Nutrition for Incompetent Patients Act)**
 - **Attending physician knows – physician and patient discussed ANH preferences**
 - **Court finds by clear & convincing evidence would not have wanted ANH**
 - **Advance directive -executed when competent- specifically authorizing w/holding or withdrawal**
 - **ANH - cause severe, intractable, and long-lasting pain or not medically possible**
 - **Patient is chronically and irreversibly incompetent, in the final stage of a terminal illness or injury, AND death is imminent**

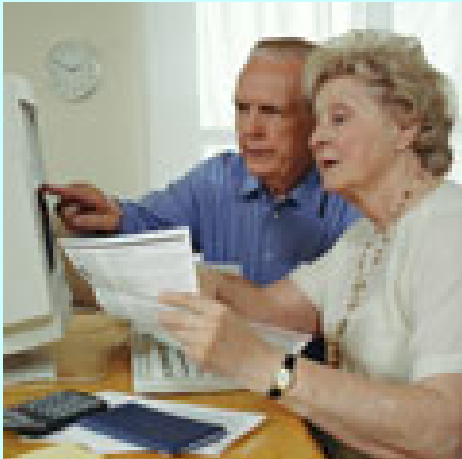




End of Life – Legal Issues

Capacity - Senior Law Resource Center

Who Decides? Caring for Patients with Diminished Capacity and Their Caregivers



In general, patients have sufficient capacity to make medical decisions if they can:

- **Understand their medical conditions and the treatment options**
- **Weigh the risks and benefits**
- **Appreciate likely consequences of treatment decision**
- **Communicate decisions**



End of Life – Legal Issues

Capacity- Senior Law Resource Center

Consider the following:

- **Variability –same wish consistently**
- **Reasoning –articulate reason behind decision**
- **Comprehension –appreciate situation & consequences**
- **Lifetime Consistency –decision consistent w/personality and patterns**
- **Undue Influence –is patient making up his own mind/someone else exerting pressure**





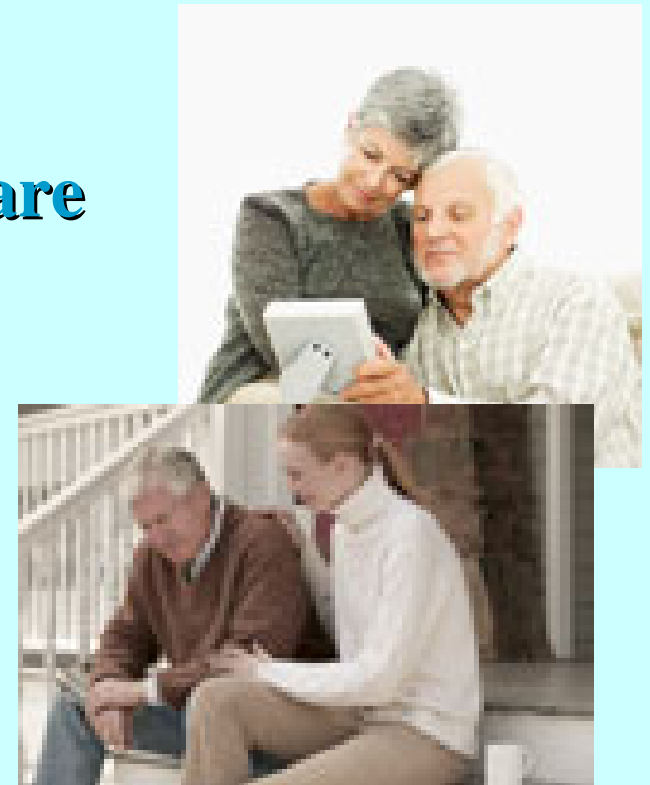
End of Life – Legal Issues

Legal Documents- Health care

Advance Directive for Health Care

**Durable Power of Attorney for
Healthcare**

Do Not Resuscitate





End of Life – Legal Issues

Advance Directive Act – 2006

- Senator requested AG opinion- AG Opinion
 - Advance Directive
 - Old AD unconstitutional
 - No ability to make plan for end stage condition
- Oklahoma Advance Directive Act passed





End of Life – Legal Issues

Advance Directive for Health Care

1. Living Will
2. Appointment of Health Care Proxy
3. Anatomical gifts
4. General provisions





End of Life – Legal Issues

Advance Directive for Health Care - Oklahoma Advance Directive Act

I. Living Will –

I. Terminal Condition - result in death/6 months

II. Persistently Vegetative State-
thought/awareness of self
and environment absent

III. End Stage Condition
permanent
deterioration/incompetency

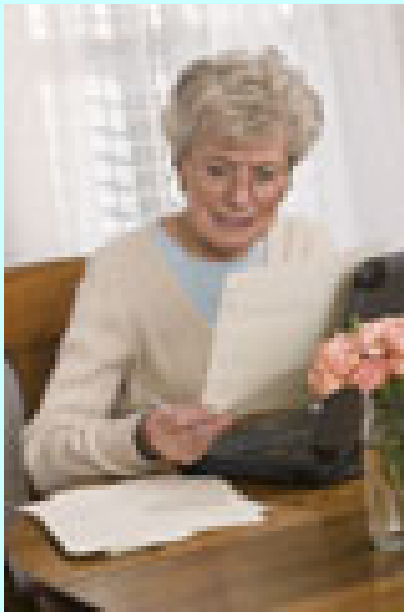




End of Life – Legal Issues

Advance Directive for Health Care - Oklahoma Advance Directive Act

Living Will -2 physicians certify incapacity and that



1. Terminal Condition- result in death/6 months

- Do not want life sustaining treatment/do not want nutrition & hydration
- Do not want life sustaining treatment/do not want nutrition & hydration (nothing)
- Do want life sustaining treatment/do want nutrition & hydration (everything)



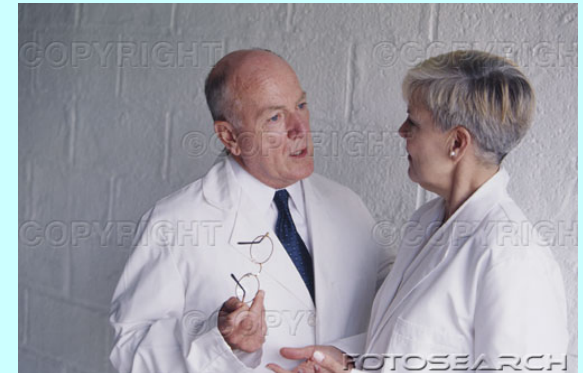
End of Life – Legal Issues

Advance Directive for Health Care - Oklahoma Advance Directive Act

Living Will -2 physicians certify

2. Persistently Vegetative State- thought/awareness of self and environment absent

- Do not want life sustaining treatment/do not want nutrition & hydration
- Do not want life sustaining treatment/do not want nutrition & hydration (noting)
- Do want life sustaining treatment/do want nutrition & hydration (everything)





End of Life – Legal Issues

Advance Directive for Health Care

Oklahoma Advance Directive Act

**Living Will -End Stage Condition-
permanent deterioration**

- **Do not want life sustaining treatment/do want nutrition & hydration**
- **Do not want life sustaining treatment/do not want nutrition & hydration (nothing)**
- **Do want life sustaining treatment/do want nutrition & hydration (everything)**





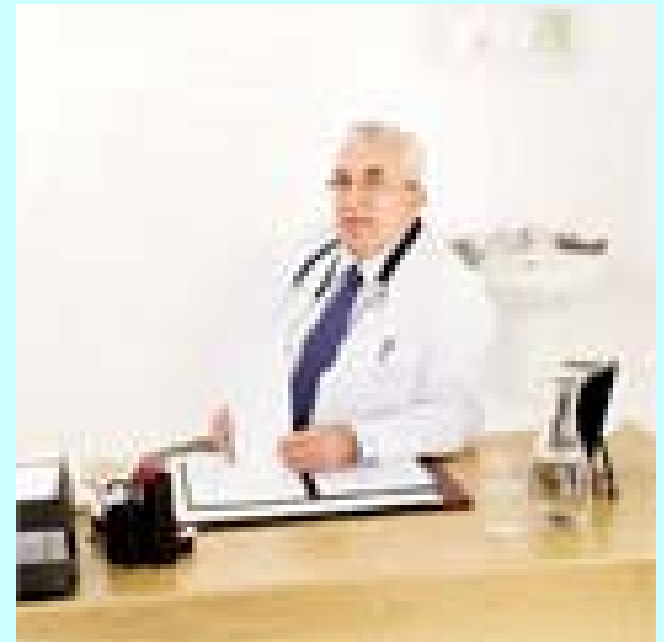
End of Life – Legal Issues

**Advance Directive For
Health Care- Oklahoma
Advance Directive Act**

**Living Will –
Other**

- a. Other Conditions**
- b. Specific Instructions**
- c. Both**

Double Effect





End of Life – Legal Issues

Advance Directive For Health Care-Specific Instructions

I authorize my health care proxy to have access to any information governed by HIPAA.

I want sufficient pain medication to control my pain even if it results in my ultimate death

I want/do not want antibiotics

I want/do not want dialysis





End of Life – Legal Issues

Advance Directive For Health Care-Specific Instructions

If the Living Will portion is not filled out:

My proxy shall have the same power to decide to provide, forego or withdraw life sustaining treatment and nutrition and hydration as if I were capable of making those decisions.





End of Life – Legal Issues

Advance Directive for Health Care - Oklahoma Advance Directive Act

II. Appointment of Health Care Proxy- 2 physicians certify incapacity

- Appoint Health care proxy and alternate
- Should be same as DPOA
- Make healthcare decisions
- Decisions -only as in Living Will





End of Life – Legal Issues

**Advance Directive for Health Care -
Oklahoma Advance Directive Act**

**III. Anatomical Gifts -- upon cessation
of cardiac functions or brain death**



Transplantation Therapy

**Advancement of science,
research, education**

Entire body/body organs



End of Life – Legal Issues

Advance Directive for Health Care - Oklahoma Advance Directive Act

IV. General provisions

18 years of age

Not effective during pregnancy

AD honored by family

In effect until revoked





End of Life – Legal Issues

Advance Directive for Health Care - Oklahoma Advance Directive Act

Witnessed- persons > 18, not related by blood or marriage to principal or attorney-in-fact

No notarization





End of Life – Legal Issues

Durable Power of Attorney for Health Care

Grant of Powers - to make medical decisions

Includes- Representative under DNR Act

Excludes – decisions reserved to Health Care Proxy

Choosing health care provider

Choosing where to live

Review of medical records

Elect Hospice





End of Life – Legal Issues

Durable Power of Attorney for Health Care

II. Additional Guidance

Goal

Fears

Spiritual Beliefs

Thoughts about medical conditions

Thoughts about home health/nursing home





End of Life – Legal Issues

Durable Power of Attorney for Health Care

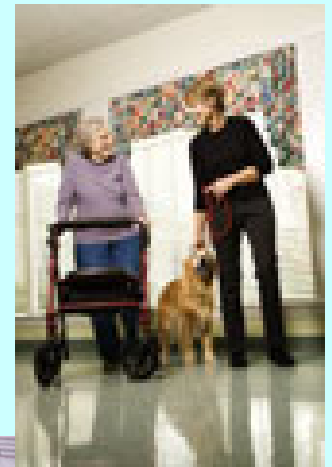
III. Effectiveness

Effective - upon signing

Springing- certification that person is no longer capable of making decisions

Witnessed- persons > 18, not related by blood or marriage to principal or attorney-in -fact

Notarization





End of Life – Legal Issues

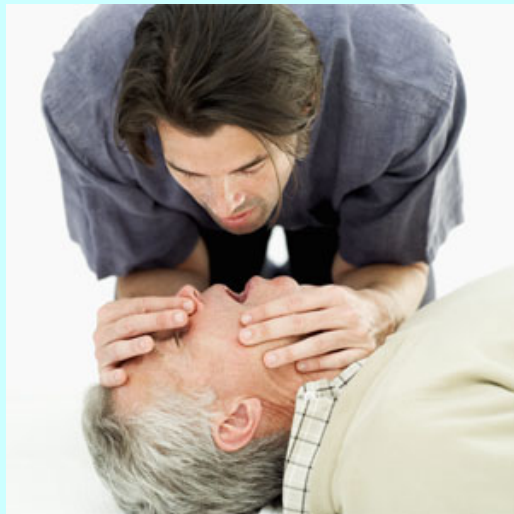
Do Not Resuscitate Act

Presumption – all persons consent to CPR unless presumption is overcome

DNR -cardiac arrest- person does not want to be resuscitated

CPR includes

- **Chest compression**
- **Artificial ventilation**
- **Intubations**
- **Defibrillation**
- **Emergency cardiac medications**





End of Life – Legal Issues

Do Not Resuscitate Act

Does not include foregoing
oxygen/Heimlich/ comfort

DNR requires

Consent by person

Consent by representative –

Personal Representative

Proxy

Guardian





End of Life – Legal Issues

Do Not Resuscitate Act Certification by Physician

Clear and Convincing Standard

- Oral, written etc. w/
family members who
had knowledge of
patient's desires

Signed

No Notarization



The End

