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Hospice Care and Planning

Hospice Patients and Estate Planning:

Should "I Already Have a Will" Be The "Final Answer"?

Very often, when a hospice patient is asked "Do you have your estate planning taken care of?" the initial response is, "Yes, I already have a will" or an even more generic "Yes, that's taken care of." Hospice caregivers would be doing patients a great favor by gently extending the inquiry further, to make sure whether the initial answer should really be the "final answer." Here are some reasons why, while hospice patients may *think* or *say* they have their estate planning house in order, that is often not the case.

People Fib to Avoid Embarrassment. Over 70% of all Americans die without a will or trust. So when a hospice caregiver asks whether the patient's estate planning is taken care of, the honest answer should be "no" nearly three-fourths of the time. But it's sort of like when a doctor asks a patient whether he has taken a prescription. The patient knows that the right answer is "yes." People don't like to admit that they haven't done something they know they should have done.

If the caregiver hears any hesitancy, or gets a vague answer like "it's taken care of," a good practice would be to follow up with a comment like, "Well, a lot of hospice patients don't have an estate plan yet, and even if you do, this is really the time to have things looked at again to make sure everything is up-to-date and the way you want it." That tells the patient it's okay to admit that things aren't yet as perhaps they should be.

People Don't Know Who to Call or How to Start the Process. Even if someone acknowledges a need for estate planning and wants to attend to it, that doesn't mean it's going to happen. Many people are happy to report that they have never set foot inside a lawyer's office. Most have no idea how to go about finding a caring and reputable lawyer who will be willing and able to help them within the short amount of time they may have left. Often, that's a recipe for "giving up before you even get started."

Hospice caregivers should never be shy about making, or offering to make, an attorney recommendation to a hospice patient. A hospice worker should make it a point to become familiar with one or more attorneys whose practice is focused in the areas of estate planning or elder law, and who have made it known that they are able and willing to assist hospice patients.

Informal Plan Are Often Incomplete or Produce Unintended Results. People sometimes think that they have taken care of things informally through a combination of joint tenancy and pay on death ("POD") and transfer on death ("TOD") designations. In some cases, that sort of informal estate planning can offer a workable solution. But just as often, the estate winds up in probate anyway, or the planning produces an unintended result.

Here are some common examples. Many widowed people have old life insurance policies on which their late spouse was named as beneficiary, and that designation has never been changed. The insurance is then payable to that person's estate. Or someone with three children will have most of her estate in three equal-value CDs, naming one child as beneficiary of each. Then one of the CDs has to be cashed in to pay for nursing home or other medical care, and that person dies with a very distorted estate plan.

Wills Invite the Very Result Most People Want to Avoid. Probate is the process of administering an estate under the supervision of a court. The great majority of people want to avoid probate because it is an expensive and time-consuming process. An awful lot of people are under the misconception that having a will is a way to keep your estate out of probate. That's simply not the case. Wills are meant to be probated. There *is* an effective way to avoid probate. That's what a living trust can accomplish.

Many people opt for a will over a living trust because a will "costs less now" in preparation fees, even though it will "cost more later" in avoidable probate costs. Others do not want the responsibility of managing a living trust during their lifetime. For a hospice patient, those objections no longer apply. Many hospice patients can save their loved ones a lot of time, effort and expense by establishing and funding a living trust. With the help of the right attorney, that can often be accomplished in a very short amount of time.

Wills Do Nothing to Address Lifetime Planning Needs. A will is, by its nature, a document that speaks to the situation as it exists at the time of someone's death. It does nothing to address issues that may arise during a person's remaining lifetime. *Every* hospice patient should have financial and health care power of attorneys in place.

Ask the Expert . . .

Hospice is Also for the Living

By: Carol Emmerich
Visiting Nurse Association
Hospice Care

Hospice is known for supporting dying patients, but we also continue to care for their loved ones who are left behind. Our patient was a young single mother with three small children and a terminal illness. She and her children eventually had to move into her mother's home. During this time her mother divorced and also became the primary caregiver to her dying daughter and her three grandchildren.

The hospice staff and the patient's mother shared many compassionate conversations about her daughter's terminal illness and her grandchildren's future. It was a slow realization for the patient's mother to accept and prepare for the inevitable.

Hospice was able to assist her in obtaining guardianship for her grandchildren. Many decisions needed to be made regarding their care and education as well as their immediate coping and adjusting to their quickly changing lives.

Following the death of our patient, the hospice staff continued to follow her family in coping with their changed lives. There are many legal, emotional and financial issues which require professional assistance and bereavement care.

Most of us have not prepared for such difficult life issues. Hospice can provide support throughout this difficult time and beyond.

Would you like to be added to our mailing list for *Hospice Care and Planning* or be a guest columnist? If so, please contact our Director of Community Education and Outreach, Beth Frame, at (314) 567-9292 or (618) 659-9292, or email to beth@coulsonlawgroup.com to be included.

If you prefer to receive your newsletters by email, you may opt-in to any of our publications by emailing beth@coulsonlawgroup.com and putting *Opt-in* in the subject line and the newsletters you wish to receive.

Planning Ahead Checklist

Provided by the National Hospice and Palliative Care Organization

- ✓ Get the information you need to make informed choices about end-of-life care.
- ✓ Get to know end-of-life care services that are available to you such as hospice and palliative care providers by going to the National Hospice and Palliative Care Organization's website
- ✓ Discuss your thoughts, concerns and choices with your loved ones.
- ✓ Talk to your doctor about different treatments.
- ✓ Establish advance directives (a living will and medical power of attorney) for your state.
- ✓ Talk to your healthcare agent, family and doctor about your choices.
- ✓ Discuss your choices often, especially when your medical condition changes.
- ✓ Keep your completed advance directives in an accessible place.
- ✓ Give photocopies of the signed originals to your healthcare agent, alternate agents, doctor, family, friends, clergy and anyone else who might be involved in your healthcare.
- ✓ Assess your financial situation, create a financial inventory and determine what end-of-life goals you want to accomplish that involve money.
- ✓ Learn about the cost of end-of-life care, how medical bills and expenses will be paid for if you are not able to.
- ✓ Make financial decisions such as how you want to give your money and possessions to others upon your death.
- ✓ Prepare for the time when you cannot handle money matters; appoint a durable power of attorney.
- ✓ Plan your funeral/memorial service.

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www.coulsonlawgroup.com

Hospice Care and Planning is written by the attorneys of The Coulson Law Group, Wesley J. Coulson and Joseph Ilges, and is published as a service of The Coulson Law Group, 1001 Craig Road, Suite 224, St. Louis, Missouri 63146; 107 Southpointe Drive, Suite 2, Edwardsville, Illinois 62025. This is for general informational purposes only and does not constitute legal advice. For specific questions, you should consult a qualified

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