LET'S TALK

Opening a Dialogue about End-of-Life Treatment Plans

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Decisions, Legal Documents & End-of-Life Treatment Plans

Is the Patient Making Decisions and Directing Plans?

Has the Patient Authorized an "Agent" to Make Plans?

• Is the family involved in the decision-making?

What if Neither Patient nor Authorized "Agent" is Making Plans?

Significance of Terms?

- Living Wills
- Advance Health Care Directives
- Health Care Powers of Attorney
- Health Care Representatives
- POLST Forms
- DNR Orders
- Right to Die, Euthanasia, Assisted Suicide
- Death with Dignity (Compassion in Dying)
- Assistance in Dying

Recent High Profile Cases



BRITTANY'S CHOICE 29-YEAR-OLD REIGNITES DEBATE ABOUT AID IN DYING

Authorized Advance Decisions on Dying

- Seven States and Washington D.C. have statutes authorizing some form of "end of life" option for individuals:
 - California (2015 effective 2016)
 - Colorado (2016)
 - D.C. (2016-17)
 - Hawaii (2018-19)
 - New Jersey (signed 4/12/19, effective August 1, 2019)
 - Oregon (1994-1997)
 - Vermont (2013)
 - Washington (2008)
- Montana: State Supreme Court said nothing in state law prohibited physician from honoring a patient's request for prescription to hasten own death

New Jersey

- 1976: Supreme Court of New Jersey ruled that parents of Karen Ann Quinlan could remove her life support.
- 2012-2019: Regular bills introduced to authorize aid-in-dying
- Early 2019: N.J. Governor signaled intention to sign legislation if passed authorizing terminally ill and dying residents to make assisted end-of-life decisions.
 - 4/12/19: Governor signed new law
 - Law requires either psychiatrist or psychologist to determine patient's mental capacity to make the decision, authorizing drug prescription that patient will administer to self
 - 8/15: Restraining order issued by Superior Court
 - 8/27: Restraining order lifted by appellate court rulings, allowing law to take effect
- Divided Vote (52% opposing v. 48% in favor) behind decision of Medical Society of New Jersey to oppose enforcement

Pennsylvania

- 2017-18 Legislative Session
 - Senate Bill 238 "Death with Dignity" (sponsored by Senator Leach and Boscola)
 - Judiciary Committee "stuck"
 - Leach has introduced bills in 2007, 2009, 2011, 2013, 2014 & 15 (with companion house bills)
- 2019-20 Legislative Session
 - No assisted death bills pending as of 9/1/19

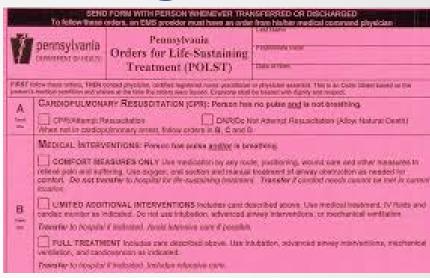
Myths about Assisted Death?

New York Times 2012 Op-Ed (by Ezekial Emanuel, M.D. at Penn):

- 1. The primary reason for seeking assistance in death is "Pain"
 - He argues only 22% in Oregon between 1998-2009 reported pain or fear of pain
- 2. "High Tech Medicine Culture" necessitates assisted suicide
 - He argues "rise in emphasis on personal choice" as greater influence motivating assisted death movement
- 3. "It improves end-of-life avoids agonizing death"
 - He argues both education and medicine improve end-of-life for those with adequate access to resources
- 4. "It is quick, painless and guaranteed way to die"
 - He argues "nothing in medicine is without complications"

http://opinionator.blogs.nytimes.com/2012/10/27/four-myths-about-doctor-assistedsuicide/

Physicians' Orders of Life Sustaining Treatment



Pennsylvania

- 2006: Pennsylvania Law directed study of POLST forms
- 2007: Demonstration project used administratively authorized forms (Dept/Health) in select hospitals; now widely used
- 2019: PA Senate Bill 142 & House Bill 997 pending, would formally authorize use of POLST forms, while also prohibiting insurers to "mandate" use

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- Updates:
- Elder Law Prof Blog
- <u>http://lawprofessors.ty</u> <u>pepad.com/elder_law/</u>

