

# 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



**CBS**  
THIS  
MORNING

**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-assisted-suicide/>



# Physicians' Orders of Life Sustaining Treatment

SEND FORM WITH PERSON WHENEVER TRANSFERRED OR DISCHARGED  
To follow these orders, an EMS provider must have an order from his/her medical control, physician...

pennsylvania  
DEPARTMENT OF HEALTH

Pennsylvania  
Orders for Life-Sustaining  
Treatment (POLST)

Physician Name  
Physician Signature

FIRST follow these orders, THEN consult physician, certified registered nurse practitioner or physician assistant. This is an Order (based on the patient's medical condition and wishes at the time the orders were issued). Everyone should be treated with dignity and respect.

**A**  
CARDIOPULMONARY RESUSCITATION (CPR): Person has no pulse and is not breathing.

CPR/Attempt Resuscitation  DNR/Do Not Attempt Resuscitation (Allow Natural Death)

When called for cardiopulmonary arrest, follow orders in B, C and D.

**B**  
MEDICAL INTERVENTIONS: Person has pulse and/or is breathing.

COMFORT MEASURES ONLY Use medication by any route, positioning, wound care and other measures to relieve pain and suffering. Use oxygen, oral suction and manual treatment of airway obstruction as needed for comfort. Do not transfer to hospital for life-sustaining treatments. Transfer if comfort needs cannot be met in current location.

LIMITED ADDITIONAL INTERVENTIONS Includes care described above. Use medical treatment, IV fluids and cardiac monitor as indicated. Do not use intubation, advanced airway interventions, or mechanical ventilation. Transfer to hospital if indicated. Avoid intensive care if possible.

FULL TREATMENT Includes care described above. Use intubation, advanced airway interventions, mechanical ventilation, and cardiopulmonary as indicated. Transfer to hospital if indicated. Include intensive care.

## 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

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