Advanced Health Care Directives: Food for Thought

John C. Martin

Popular news stores make clear the necessity of advanced health care directives. Many of us have heard the horror stories of Nancy Cruzan and Terry Schiavo—young women who suffered debilitating accidents in the prime of their lives and never emerged from coma. Painful and drawn out legal battles ensued over whether the to “pull the plug.” Religious, political, and familial considerations all played a role in determining how Terry’s and Nancy’s health care decisions should be made. What about their own beliefs? If Terry Schiavo and Nancy Cruzan had advanced health care directives in place, the uncertainty, endless litigation, and pain could have been avoided.

Here’s a list of things to consider about advanced health care directives: (1) are spiritual values and personal priorities important to you when making medical decisions? (2) Can you think of any situations in which you would not want medical treatments to keep you alive? (3) Do you hold beliefs that would dictate the way in which your remains were treated after your death? For instance, would you like to make clear to family and friends your wishes about burial, autopsy, and organ donations? (4) Think about the pros and cons of certain health treatments if you became seriously ill. If the treatments had very severe side effects, would that deter you from seeking those treatments? (5) When choosing someone who will make health care decisions for you during a medical crisis, what criteria would you base your decision upon? The state of California has certain legal criteria for agents that act on your behalf in medical situations. Consult with an attorney to determine whether this criteria would be satisfied. Moreover, would that person be able to speak for you in the event of a crisis? Would they be able to keep their own wishes and your desires separate? Would it be practicable for them to stay by your side in the case of a medical crisis? Think carefully about this one. (6) Finally, remember that communication with relatives and close friends about medical treatment decisions is crucial. Explain to them your wishes for medical treatment so that others will fully understand. It can be difficult to have this discussion, but it can alleviate doubts, pain, and the anxiety that results from a lack of planning.

This article is intended to provide general information about estate planning strategies and should not be relied upon as a substitute for legal advice from a qualified attorney. Treasury regulations require a disclaimer that to the extent this article concerns tax matters, it is not intended to be used and cannot be used by a taxpayer for the purpose of avoiding penalties that may be imposed by law.

John C. Martin is a lawyer practicing in Menlo Park. For more ideas, visit his website: http://www.johnmartinlaw.com