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Now is the time to discuss end-of-life treatment

As a tribute to Benjamin Franklin's famous saying, "Nothing in life is certain but death and taxes," the day after Tax Day is designated as National Healthcare Decisions Day to encourage Americans to express their healthcare wishes. Although April 16 has come and gone, this is a good time to reflect on the purpose of having an advance directives education initiative.

The Pew Research Center in January, 2006 released a study titled "More Americans Discussing—and Planning—End-of-Life Treatment." Some of the points of the study include the fact that 42 percent of Americans surveyed have had a friend or relative suffer from a terminal illness or coma in the five years prior to the study. In a majority of those surveyed, the issue of withholding life sustaining treatment came up for discussion. An overwhelming majority of Americans support laws that give patients the right to decide whether they want to be kept alive when terminally ill, and when no medical treatment will save the person's life. However, despite public support for law making on the subject, only about one-third of adults in the U.S. have a living will or any type of advance directive.

Pennsylvania has had an Advance Directive statute in place since 1992. The Federal Patient Self-Determination Act of 1990 requires that all Medicare participating healthcare facilities must inquire about and provide information to all patients on Advance Directives. Nevertheless, the U.S. Agency for Healthcare Research and Quality found that in 2003, less than 50 percent of severely or terminally ill patients studied had an advance directive in their medical record. Furthermore, of those persons who did have an advanced directive, between 65 and 76 percent of their physicians were not aware of its existence.

Oftentimes, tragic consequences are the result of the failure to take the time to prepare an advance directive or living will. The gravely ill person can suffer needlessly, and family members are emotionally conflicted when no clear statement is given to them by the ill person as to his or her wishes or who is to carry out those wishes. An example is the Terri Schiavo case where a young woman's fate became the subject of legal battles and political moves for 7 years. The best option for your loved ones is to take the time to prepare a document that will give them guidance if decisions need to be made someday. A conversation should accompany this process with relevant family members, and physicians. Your attorney can be a helpful "team member" in this process, particularly since Pennsylvania has a Healthcare Power of Attorney with Living Will document available since 2007. This document is more inclusive than a simple living will or advance directive, and can be more helpful to family and physicians when a situation arises that calls for decisions to be made.

The terms "DNR" and "advance directives" are not interchangeable. This is confusing to many persons, especially non-hospital healthcare facilities. Advance directives indicate the person's wishes for care during their last illness. A DNR or Do-Not-Resuscitate order can only be provided by a physician, hopefully based upon prior knowledge of what the dying person would have wanted should he or she have been able to say at that time.

The American Bar Association and the NHDD website have more information for the public. Consult your attorney for information on preparing documents for you.