Getting Your Affairs in Order: Estate and Advance Care Planning Essentials

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Advance Care Planning Objectives

- What is Advance Care Planning (ACP)
- Why is ACP Important?
- Steps of ACP
- ACP Guidance

Advance Care Planning (ACP)

Advance care planning is a process that supports adults at any age or stage of health in understanding and sharing their personal values, life goals, and preferences regarding future medical care.

The goal of advance care planning is to help ensure that people receive medical care that is consistent with their values, goals, and preferences during serious and chronic illness.
Advance Care Planning & Advance Directive by the Wisconsin Medical Society

**Why Is This Important?**

- LOVED ONES WON’T HAVE TO GUESS IF THEY MADE THE RIGHT DECISIONS
- THE CARE RECEIVED MAY BETTER REFLECT ONE’S WISHES
- THE HEALTH CARE TEAM WOULD BE AWARE OF TREATMENT PREFERENCES
- CAN REDUCE UNWANTED CARE, TREATMENT, AND HOSPITALIZATIONS
- THE HEALTH CARE AGENT WOULD HAVE LEGALLY RECOGNIZED STATUS AS A DECISION MAKER

**Advance Care Planning Steps**

1. Discuss and decide on care goals in the event of a severe accident or illness
2. Choose a Decision-Maker (Health Care Agent)
3. Identify personal, cultural, or religious beliefs that may affect treatment decisions
4. Create a Power of Attorney for Health Care
Choose A Decision Maker

Who can be trusted and will:
✓ Accept the role
✓ Talk with you about your goals, values and preferences
✓ Follow your choices, even if they do not agree with them
✓ Make decisions in sometimes difficult moments
✓ Have availability via telephone

Health Care Agent Responsibilities

- Make choices about medical care
- Review and release medical records
- Arrange for medical care and treatment
- Make decisions on living situations
- Decide which health providers can provide treatment

When Does a Health Care Agent's Authority Begin?

The POA-HC Must Be Activated

Two health care providers must:
• Examine the individual AND
• Sign a statement certifying the person is incapacitated
Wisconsin (WI) Laws and Decision Making

WI law does not authorize next of kin to make decisions for incapacitated adult family members.

- In a hospital situation, if quick decisions need to be made, staff will look to next of kin.

Wisconsin law regulates who has the authority to consent to an individual's admission to nursing homes and certain other facilities.

- If a person is unable to make health care decisions for themselves, and has not completed a POA-HC, a guardianship order would need to be filed in order to be admitted into the care facility.

Case Scenario

Jamie has middle-stage Alzheimer's

- Jamie lives at home with caregivers at baseline.
- Jamie had a fall, sustained a fractured hip, and now requires surgery.
- After several days in the hospital, Jamie is ready for transfer to a rehab unit for ongoing therapy, as care needs exceed what the home caregivers can provide.
- Jamie never completed a POA-HC and no longer has decision making capacity.
- The rehabilitation unit cannot accept Jamie until a legal decision maker is appointed.
- Jamie’s loved ones need to petition for legal guardianship through the courts:
  - More days in the hospital
  - Delay in starting rehabilitation
  - Costs to patient/loved ones
  - Increased stress on loved ones
- Once the guardianship petition is filed, Jamie can transfer to the rehabilitation unit.

Think About Your Care Goals

Reflect…

Look Back…
Explore What Gives Your Life Meaning

Explore Cultural and/or Spiritual Beliefs

- What helps you face serious challenges in life?
- What beliefs influence your preferences for medical interventions?
- Do you need to discuss concerns or clarify your beliefs with others?

Create Power of Attorney for Health Care (POA-HC)

- What is a POA-HC?
  1. A written, legal document
  2. Names the person(s) that you trust to make medical decisions for you if you are unable to do so yourself
  3. Outlines some of your treatment preferences
- Can use Advance Directive for Dementia for guidance
When the Document is Complete

- Give copies to:
  - Health Care Agents
  - Primary Care Clinic
  - Any Health Care Organization where care is received
- Talk to loved ones about document and wishes
- Keep original POA where it can be easily found

The 5D’s Review

- Decade
- Death or Dispute
- Divorce
- Diagnosis
- Decline

ACP Guidance in Dementia Across the Stages

**Early-Stage Disease**
- Identify surrogate decision-maker, review their role, and include in discussions
- Review patient’s goals and values (think about previous experiences they have had with serious illness of loved ones [what went well, what didn’t go well?]), explore what gives their life meaning and how it might impact future care preferences
- Think about Code Status preferences
- Complete POA-HC

**Middle-Stage Disease**
- Remind the person with memory loss about their experience with someone at the end of life (i.e., “remember when grandma died”), how they felt about it, and their preferences for their own experience
- Assess ability to complete POA-HC

**Later-Stage Disease**
- When the individual can no longer express their wishes, it can be helpful to think about how the person lived their life. Think about values and wishes they expressed in the past
- Consider Guardianship if no POA-HC
- Review Code Status with Primary Care Provider

Source: The Conversation Project
A Letter to My Loved One

Resources

- UW Health
  - [www.uwhealth.org/acp](http://www.uwhealth.org/acp) (Free Advance Care Planning Virtual Workshops)
- Dean Health Plan
  - [www.deancare.com/acp](http://www.deancare.com/acp) (Free Advance Care Planning Virtual Workshops)
- The Conversation Project
  - [Theconversationproject.org](http://Theconversationproject.org) (Free Advance Care Planning Virtual Workshops)
- Conversation Starter Guide for Caregivers of People with Alzheimer’s or Other Forms of Dementia
- GWAAR-Guardianship Support Center
- Advance Care Planning & Advance Directive by the Wisconsin Medical Society
  - [Advance Care Planning & Advance Directive](http://wismed.org) (Free Advance Directive forms in several languages)
- The Conversation Project
- Fillable Advance Directive forms in several languages
- Refer Client to Primary Care Provider
- Most Health Care facilities have an ACP contact (often social work/spiritual care departments)
- [Advance Directive for Dementia](http://dementia-directive.org) (use for guidance)

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Why Estate Planning?

- Understand the magnitude of the task at hand...
  - Death Certificates
  - Recurring Bills/Expenses
  - Funeral Arrangements
  - Property Taxes
  - Home
  - Digital/Online Estate
  - Personal Belongings
  - Final Tax Return
  - Bank Assets
  - Rules for Retirement Assets
  - Retirement Assets
  - Social Security
  - Life Insurances
  - Pension Payments
  - Recurring Bills/Expenses
  - Auto Registration
  - Rules for Retirement Assets
  - Veterans Affairs
  - Final Tax Return
  - Number of Financial Advisors
  - Location of your records
  - Location of your records

LIFE HAPPENS
GET YOUR WILL DONE
What tools do we have?

- Will
- Revocable/Living Trust
- Irrevocable Trust

*A Will is likely drafted as part of any Trust paperwork

What is NOT in a Will?

The following are separate documents from a Will, BUT are important parts of an overall estate plan:

- Financial Power of Attorney
- Health Care Power of Attorney
- Advance Directives for Health Care

What IS in a Will?

- Named Executor/Personal Representative
- Wishes for destination of assets/belongings
- "Directions" for an Executor to create a Trust to receive your assets upon your death*

*Testamentary Trust - often for minors, but can be any postmortem trust*
Who's In Charge?

- Powers of Attorney are while still living
  Powers CEASE at passing
- Executor / Personal Representative
  Take over control after passing

Common Errors

- Life Insurance – Listing a spouse, no succession
  Tax Free Benefit
- Bank Accounts (POD) – Nothing listed
  Access to Funds
- Joint Account – Nothing Listed
  Who is the account joint with?
  What if both pass simultaneously?

Common Errors, cont’d

- Minors – Not a great choice for beneficiary
  Access to funds, Lump Sum at age 18
- IRA/401k – Nothing, Former Spouse
  Understanding the Secure Act & 10-yr distribution rule
- Understanding Taxation when Assets Pass
  Before or After Death?
Other Thoughts...

- Choose your Powers & Executor wisely & without emotion
- Understanding taxation is important
- Powers of Attorney/Health care cease at death* The Executor is then in charge
- Decide on your people, be sure they are informed, share as you wish after that (No decision is a decision)

Thank you....Questions?

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