Advance Directives

Not many people take the opportunity to think about living and dying. Those of us in medicine deal with death and dying almost everyday. Many times we raise the question, “If you were dying, what would you want done to prolong life?” Many people have strong opinions about dying. For example, some people say that “I don’t want to die, and I want everything done”; other people say “I am not afraid to die, but when death comes I want it to be natural, and I don’t want to be ‘put on machines’.” There have been many advances in medical technology that enable us to help prolong life, many times in a positive way. It is easier to discuss life and death issues before a crisis moment occurs so that there is clarity of thought with the person, the family, and the health care givers about our desire and intent for aggressive measures in a terminal condition.

The term “advance directives” is a legal word that refers to two documents that outline a person’s wishes in the event of dying. These two documents are:

1) “The Living Will” and
2) “Durable Power of Attorney for Health Care.”

Both the “Living Will” and “Durable Power of Attorney for Health Care” act to convey a person’s wishes in the event that they are dying. Although these may not be valid in a normal, healthy, active individual, it does signify their intent if something unforeseen should happen. Both documents are witnessed but not necessarily notarized, and they can be updated or revoked at any time if the person changes their mind. These documents are used best when the intent is communicated from the person to their physician and their family, so that everyone understands the person’s wishes in the dying process.
The Living Will
(Directive to Physicians)

"The Living Will" or in Texas the "Texas Natural Death Act" is a directive given by a person to their physician, which essentially states that they do not want aggressive terminal care done if they are dying. This document is valid only if a person has a terminal condition and is expected to die with or without treatment. Generally, the elements under this document include cardiopulmonary resuscitation (better known as CPR), mechanical ventilation (sometimes called “breathing machines”), or kidney dialysis.

In some situations, other care such as blood transfusions, I.V. antibiotics, I.V. fluids or nutrition are also considered as extending life or prolonging death.

Sometimes a person is no longer able to communicate his or her desires with their medical caregiver or with their family. Such conditions may include severe dementia, a coma, or another brain injury that impairs functioning.

Directive to Physicians
"The Living Will"

Guidelines and Directives

The Texas Legislature has enacted the Natural Death Act which authorizes use of written directives in accordance with the guidelines set out below. The DIRECTIVE must be witnessed by two adults who (1) are not related to you by blood or marriage, (2) are not mentioned in your will, and (3) would have no claim on your estate. The DIRECTIVE may NOT be witnessed by your physician or by anyone working for your physician. If you are in a health care facility at the time you sign the DIRECTIVE, none of its patients may be a witness, and none of its employees may be a witness if they are involved in providing direct patient care to you, or are directly involved in the financial affairs of the health care facility. You do not have to designate another person to make treatment decisions in order for the DIRECTIVE to be a legal document.

The DIRECTIVE does not become effective until such time as you become a "qualified patient." You become a qualified patient only when you have been diagnosed and certified in writing to have a terminal condition by two physicians, one of whom is your attending physician, who has personally examined you.

If a qualified patient is under 18 years of age, any of the following persons may execute a DIRECTIVE on behalf of the patient: (1) the patient’s spouse, if he/she is an adult; (2) the patient’s parents; or (3) the patient’s legal guardian.

However, the desires of a competent qualified patient who is under 18 years of age shall always supersede a DIRECTIVE executed on his/her behalf.

A form which may be executed on behalf of a minor is provided on the back of the form for adult patients.

The DIRECTIVE is valid until it is revoked. You may revoke the DIRECTIVE at any time, even in the final stages of a terminal illness. If you revoke the DIRECTIVE, be sure your physician is told of your decision. If you change your mind after executing a DIRECTIVE, your expressed desire to receive life-sustaining treatment will at all times supersede the effect of a DIRECTIVE.

The DIRECTIVE is a legal document.