

Practical Probate: Health Care Representatives

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Some time ago, Joan Rivers, a well-known television personality, had to be placed on life support after it was reported that she experienced complications during a surgical procedure. When I originally wrote this article, it was mentioned in the media that decisions regarding continuing Ms. Rivers' life support might need to be made. It's easy to understand that these kinds of situations are extraordinarily stressful. The situation is even more difficult if the family doesn't know the patient's wishes.

Ms. Rivers' unfortunate situation highlights concerns that many of us have about our own health care: what happens if we can't communicate with our health care providers or we are unaware of what's going on? Medical and surgical treatment always requires decisions to be made. Sometimes a health care professional recommends a particular treatment, or provides options for different treatments. The health care professional acts at the patient's direction, which may include authorization for a particular treatment, or the decision to not have a treatment. Examples of these types of decisions include the use of life-saving interventions such as cardiopulmonary resuscitation (CPR), and intubation if the patient cannot breathe on their own. Life-sustaining treatments might include feeding the

patient through a tube or intravenously.

If a patient can't communicate decisions to their health care provider, what options are available? One tool that adults in Connecticut can use in such a situation is the appointment of a health care representative. A health care representative may make medical decisions on behalf of the patient when the patient is unable to do so. There is no inherent limit on those decisions – they are not limited to life-saving or life-sustaining interventions, but may include any and all health care decisions for a person who is incapacitated to the point where they can't actively take part in decision-making and cannot direct their health care provider regarding their medical care.

The ability to make health care decisions when the patient is incapacitated is one important way health care representatives are different from health care agents. The authority of health care agents is limited to conveying the patient's wishes to medical providers; they have no authority to make decisions. Effective October 1, 2006, Connecticut law was changed to permit the appointment of health care representatives. The difference between health care agents and health care representatives is especially important for those who executed an appointment of health care agent

several years ago. The change in the law gives adults in Connecticut a potentially more effective tool in planning for incapacity. A health care representative retains authority to make health care decisions even if the person who appointed them is under an involuntary conservatorship, unless a court order says otherwise.

A related article on this website examines advance medical directives. Advance medical directives, also known as “living wills,” are commonly used in conjunction with the appointment of a health care representative as part of a legal strategy to plan for potential incapacity.

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