

Daily Union Article
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Title: Hope for the Best, but...

My dad used to say that there only two sure things in life, "paying taxes" and "death." I am not sure the first one is accurate anymore based on what we hear in the news about people evading taxes. However, dying still remains a reality for us all.

I am not making light of dying. Rather, I want to emphasize the importance of accepting and planning for this eventuality and the challenges that often come before death happens.

In Kansas, any competent person over the age of 18 has the legal right to voice their wishes regarding their future health care in the event that they would be unable to speak for themselves. Even so, less than 25% of all American adults have advance health care planning documents in place. Without these important legally binding documents, health care providers and family members are generally unable to provide the care the individual desires. It complicates the health care decision-making process and can create a legal battlefield that is both emotionally and financially exhausting.

Additionally, according to a recent national survey, only 42% of U.S. adults have estate planning documents such as a will or living trust. For those with kids under legal voting age, only 36% have an end-of-life plan in place.

Why is this important step not taken by the majority of Americans? The most common reason, based on a study conducted by Princeton Survey Research Associates International, is "I just haven't gotten around to it."

Having no will can cause a lot of problems. If you die without a will, it means you have died "intestate." Your assets will be distributed based on the statutes of the state in which you reside. Your bank accounts, securities, property, and other assets owned at the time of death will be under the control of the state, and will likely not be distributed in the manner in which you would have desired.

Knowing that your health care and assets will be at the control of others who know little if anything about you hopefully motivates you past the "I just haven't gotten around to it" stage of the process.

When should you get started on this advance planning process? Any time after you turn 18 years of age. Too often we think advance health care planning is for older adults only, but the truth is, we all want to have a voice in our own health care regardless of our age. A person of any age can experience a life-changing event such as a serious accident or serious illness. Taking control of the situation before it possibly happens is the proactive way to make sure your voice is heard.

What legal documents should you consider to get your affairs in order BEFORE you need them to be? There are four types of advance health care planning documents for you to

research: 1) Durable Power of Attorney for Healthcare; 2) HIPPA Authorization; 3) Living Will; and 4) Pre-Hospital Do-Not-Resuscitate Directive or DNR.

A Durable Power of Attorney (DPOA) for health care is a legal document in which you appoint someone to speak for you on your behalf. In Kansas, this person is called your "agent." Sometimes they are also referred to as a "health care agent", "proxy", "attorney-in-fact" or "health care proxy." This person should be someone you trust who knows you well and will advocate for you and your wishes.

A HIPPA Privacy Authorization Form (HIPPA stands for the Health Insurance Portability and Accountability Act), is a form that should be completed to ensure your durable power of attorney for health care will have direct, uninhibited access to your medical records. This form should be necessary for your agent to have the right to fully advocate on your behalf by knowing what your medical records show.

A Living Will is an instruction list to your physician, family, and friends about the preferences you have regarding life-sustaining or end-of-life care. This form comes into play once you have been diagnosed as "terminal" by two physicians. Specifically, the form says "...I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort."

Kansas offers a fill-in-the-blank version of the Durable Power of Attorney and the Living Will forms. You can go to the Kansas Legal Services website (a non-profit organization) to access these forms and other helpful resources and information about Living Wills and DPOAs: www.kansaslegalservices.org

A pre-hospital DNR can be a very sensitive subject. Most people reading this article likely do not need a pre-hospital DNR. A pre-hospital DNR states that you do not want to have resuscitation attempted, should you stop breathing or your heart stops beating. The term "attempted" in this definition warrants close attention. Attempted does not mean successful. Successful resuscitation cannot always be guaranteed. This document requires very serious consideration and should only be completed if absolutely necessary. A pre-hospital DNR means that, if you were to have a medical emergency and an ambulance came, they could NOT perform CPR on you in an attempt to revive you. For this reason, this document is not for everyone and is typically only recommended for terminally ill or incredibly frail individuals.

Be proactive. Take time to tackle these tough topics now so that you can feel confident with what may happen should you become seriously ill or terminal. For more information about advance health care planning in Kansas, you can contact me at the Geary County K-State Research and Extension office at 785-238-4161. Until next time, keep living resourcefully!