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Living wills and DNR orders: which is which?

Most people have heard of a Living Will or Advance Directive. This is how you can make your end-of-life issues known so that appropriate decisions can be made in the event that you have an end stage medical condition or are permanently unconscious. With a Healthcare Power of Attorney, you appoint an Agent or Agents to communicate your written decisions if you are unable to do so. Your Agent generally can only speak for you if you cannot speak for yourself. Where the confusion comes in is when a facility requests that the Agent provide a Do Not Resuscitate Order or DNR.

A Living Will is an expression of your wishes for end-of-life care. No one knows for sure what treatment they will want in every circumstance, but most agree that if nothing can be done to save you, and the continued (or initiation of) treatment will prolong the process of your dying, then treatment should not be initiated or continued. That is why it is important to discuss this with a trusted Agent and/or family members since it is possible that you will not be able to communicate your wishes at such time as they must be acted upon. A written directive can make this easier; otherwise how you feel about these matters may remain unknown to others. Hopefully, you will retain the ability to direct your care and make your own decisions. A Living Will is only intended to be followed if your physician determines that you are not able understand, make and communicate health care decisions, and you are in an end-of-life situation.

However, a Living Will is merely an expression of your wishes, made when you were able to understand and communicate those wishes. There is no obligation on the part of a healthcare professional, especially emergency medicine personnel, to find and follow such a document if you are unable to speak. That is when a DNR (Do not resuscitate) order is necessary. Only a physician, or a physician's assistant at the direction of a physician, can sign a DNR. There is a form for an Out of Hospital DNR that can be used in facilities or at home, especially when hospice is involved.

A physician can consult with your agent or surrogate in your Living Will if you are not able to make a decision to sign a DNR. The physician should consult with the terminally ill person on this decision if at all possible. If that is not possible, the doctor will then speak with family members, particularly anyone named on the Living Will if one exists. By statute, there is a preferential order to the persons who can make end-of-life decisions for an incapacitated terminally ill person. However, some people may want to override the persons entitled by statute to make decisions by executing a document naming their preferred decision makers.

Where the confusion comes in is when a family is asked to provide a DNR when a Living Will is what is needed. A DNR is not appropriate unless an attending physician determines that the person in question should have no "heroic measures," i.e. should not be resuscitated, due to the severity of the current medical condition. DNR orders are not lightly given, nor should they be. Everyone should express their wishes in writing through a Living Will but not everyone in a personal care home, assisted living or even a skilled care facility needs a DNR.