

Amendment to your Advance Directive-why you might need one.

Two estate planning attorney colleagues (with 20 plus years each in estate planning and probate law) commented on my work http://www.usatoday.com/news/nation/2005-04-27-living-will-parties_x.htm helping clients update their individual Advance Directive for Health Care. Here's their feedback:

“Yes, I like your holographic directive amendment idea addressing the money and long term care. That's exactly what I had in mind. Your question on who decides when and how much to spend on care? Answer: Whoever controls the money; be that the Successor Trustee, DPAA Attorney-in-fact, or the Conservator. That's why counseling and coordination are so crucial.”—Soquel trust attorney

“I like your idea!” Monterey School of Law professor, a top Salinas probate and trust litigator.

Yes, one in four will need someone to speak for them on this when they can't. So, here's how you use this concept to update your estate plan. Remember, I am not an attorney. Fact: lawyers get nervous asking clients personal family health questions and often don't want to messy up trust documents with chronic health care directions or spending formulas. Hospice volunteers and Advance Directive counselors are comfortable with health issues but *not* with money. So this whole issue often gets dropped out. Remember, if you do a holographic (by hand) document like this to update, think twice before having it witnessed. Not a good idea. Fold a single blank piece of paper over, address it to yourself. Fix a stamp. Tape it shut (no envelope). Mail it to yourself (poor man's notary). When it comes back date stamped, its veracity will be your handwriting. Put it in your words and your handwriting. Each spouse does their own. File it with your Advance Directive for Health Care (see header). Now, go see a real attorney! And to clarify your last wishes, do the “Go Wish Game” first at www.gowish.org/index.php or download a free AD form at www.makeyourwishesknown.org

Dear kids, loved ones, Advance Directive agent and Power Of Atty for finances: (Use your own handwriting and words!)

I decided to get/decided not to get/couldn't qualify for a pre-paid long term care insurance plan should a custodial, in-home care, or assisted living care need arise for me, a disability not medical & not acute care related and therefore not covered by Medicare, “medigap”, Medi-Cal or health insurance at work. I realize these 2010 Bay Area long term care costs easily run \$144,000 to \$160,000 a yr. for 24/7 in-home care at \$21/hour; and \$60,000 yr. for residential assisted living care. And I know costs can go as high as \$700,000 a yr. for 24/7RN in-home care which some may think I want or need.

But here's what I want... _____ (person/agent for my finances) to use my assets and income to pay for my custodial/non-medical care. The above named person in charge of my money should go first to my 1) Long Term Care insurance policy; 2) then go to my _____ (rental/land/IRA/income stream); 3) and then go to the equity in my home through an equity line of credit or a reverse mortgage to pay for my quality long term care. (Yes, fees are not cheap in these products; but I'm worth it! Also note: This document is not witnessed to make it clear I acted alone with no undue influence.)

Again, don't spend exorbitantly on me for my care, thus making my spouse after me impoverished. She may need care also, much later than I. Yes, conserve assets for my spouse/partner should long term care be needed for her after I'm gone.

And kids, I know you'd never do this but don't fight among yourselves about my stuff/money/house/equity. I want it spent all on my quality custodial care first. Spend monthly: \$1,000, \$4,000; \$6,000; \$8,000; \$10,000; \$ _____ (circle one) in 2010 dollars for me. Save some assets for the grand kids for college if you can for I love them; but they come last.

Here's financial instruction for my care. I want to A) to stay at home as long as I can, then B) go to assisted living, and then (only if my doctor says I must) C) put me in a nursing home. Kids, spend to keep me at home as long as possible. If I can't speak my wishes? Read once again my Advance Directive on file at Dominican & the above AD amendment on finances. Honor my wishes! All the best. Your (almost but not quite yet dead) Dad. X _____ Date: _____