

# Directives for Health Care & Finances



By Kristen M. Jackson, Attorney

Plan ahead by having health care and financial directives in place to protect you.

We tend to take our health for granted, especially while we are young and strong. But, what would happen if you became incapacitated due to a tragic accident or catastrophic disease or illness? Would you be prepared with the appropriate protection plan in place to take care of your health care and financial decisions? The next question is: What is an appropriate plan?

We each have the right and authority to make our own decisions regarding how we will manage our health. However, if you become unable to manage your own health care decisions due to incapacity, who will look out for you and make sure you receive the best care—the care that you would choose for yourself? No one, including spouses, brothers, sisters, children or any other blood relatives, friends or acquaintances, has this decision making power unless you give it to them. You can ensure that someone can act for you by executing certain health care directives to state your wishes with regard to medical care and artificial life support and to appoint one or more individuals to make critical decisions on your behalf.

One of the documents you should consider putting in place is a health care power of attorney, under Florida law known as a Designation of Health Care Surrogate, to name someone to discuss your condition with your health care providers and to authorize the proper course of treatment, surgical procedure and/or medication regimen.

In addition, due to the passage and enforcement of the information privacy act, the Health Insurance Portability and Accountability Act of 1996, health care providers will not release your medical information to anyone else for fear of facing fines and imprisonment unless you authorize them to do so in writing. You need to ensure that the person you designate as your surrogate is kept informed about your condition and that they have full access to your medical records to make informed decisions about your health and access to billing information to make sure billing is accurate and insurance claims are properly filed.

Consider these scenarios: You are in a horrific vehicle accident with massive head and bodily inju-

ries. You are in a coma and hooked up to countless tubes for oxygen, nutrition, pain, medication, etc. There is no chance of recovery. Would you want to be kept alive indefinitely? Or, you are 75 and have terminal cancer. You have had chemotherapy for many months. You have lost your hair and a great deal of weight due to lack of appetite, and the chemo treatments make you feel lousy six out of seven days a week. You have had no quality of life for a long time. You decide to stop chemotherapy and your body begins to rapidly deteriorate. You enter the hospital and shortly thereafter you become totally incoherent. There is no hope of recovery. Do you want to continue to exist in this condition?

If your response to either of these questions is no, you need a living will. Without a living will, you could be destined to an undetermined amount of time on life support. This could devastate your family while they watch you in a vegetative state, unable to communicate. With a living will you can designate someone to authorize your health care providers to remove you from life support and allow you to conclude your life with dignity.

If you become unable to manage your own financial affairs, in addition to naming surrogates in a Designation of Health Care Surrogate and Living Will, someone should be authorized to take charge of your finances should you succumb to incapacity, whether it is temporary or permanent. The person you name to manage your financial affairs, known as an attorney-in-fact, can work closely with your surrogates (or may be the surrogate) and be authorized to pay your bills, manage your investments, set up trusts, make gifts to family members, assist in applying for government benefits, sell property to obtain cash if needed, and many other functions.

Taking care of your health and finances is of utmost importance. Since we cannot predict disasters or illness that may lead to incapacity, it is imperative that we plan ahead. If you do not have health care and financial directives to protect you in the event of incapacity, contact an experienced estate planning attorney to assist you in putting them in place. **L**



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**Kristen M. Jackson**, attorney and founding partner of the Jackson Montoya Law Firm (407-363-9020), has over 29 years of experience in estate planning, business, real estate and family law. She has earned an AV rating from Martindale Hubbell signifying the highest level of professional excellence as obtained through opinions from members of the Bar and Judiciary.