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## ENDURING POWER OF ATTORNEY

Reviewed: 1 September 2013

**Provided by the Australian and New Zealand Society of Palliative Medicine, Ethical Guidelines are a relevant standard which have effect in New Zealand Law through the New Zealand Code of Health and Disability Consumers' Rights (1996).**

*The New Zealand Code of Rights requires health providers to inform patients of their rights to make decisions concerning their medical care including the right to accept or refuse treatment. Because these rights are basic to the hospice concept of care, the Otago Community Hospice is committed to helping the public learn about these choices.*

### **What is an Enduring Power of Attorney?**

New Zealand law enables people to confer an enduring power of attorney so that if the patient becomes incompetent to make a decision about their care, the person who holds the enduring and applicable power of attorney may make decisions about matters relating to the patient's personal welfare. Under the relevant legislation, the attorney is not permitted to refuse consent to the provision of "standard medical treatment" which is intended to save the patient's life. (Protection of Personal and Property Rights Act 1988).

### **What are Advance Directives?**

They are written tools of communication. They provide a permanent record of important thinking and planning about your wishes for medical care should you be unable to communicate them. They relieve your family, friends and your doctors of the burden of assuming or guessing what you would want.

### **Who can make decisions for me if I don't have an Advance Directive?**

When you are accepted into the Otago Community Hospice palliative care service you sign an Informed Consent for palliative care services which is based on the New Zealand Code of Rights (1996). In New Zealand, if you are unable to make decisions about your care, and in the absence of an enduring power of attorney, advance directive or guardianship, the medical officer in consultation with your family/relatives will make the decisions about your care. A medical officer is obliged by New Zealand law to provide "standard medical treatment".

Discussions with family and relatives is very important but they have no legal rights unless appointed through guardianship or by an enduring power of attorney.

### **If I would name my next-of-kin anyway to make decisions about my care, why go to all this trouble?**

By planning now you lift the burden of guesswork from your family – your wishes are already known and simply need to be communicated to your health care providers. In what would be a very emotional time for making decisions, family members can be clear on who takes the lead. Also, you may need to consider that you may prefer to ask someone other than family or a relative to speak for you.

### **Then which of these directives should I choose?**

Many people already have Living Wills and these documents continue to be valid as they express your wishes to withhold or withdraw treatment if you have a terminal condition. If you have an enduring power of attorney, the person you name as your agent can speak for you in any instance when a physical or mental condition makes it impossible for you to understand, make or communicate an informed decision about providing, withholding or withdrawing treatment.

**If you currently have no documents, or if you wish to make a new directive, you need to speak to your lawyer who will handle this for you.**

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### **Who should I ask to be my agent for health care decisions?**

Talk to a family member or friend who share your value system and is comfortable with the decisions you have made. Make sure that the decisions you document have been thoroughly discussed with this designated agent and with other people who care about you. People employed by your health care provider should not serve in this capacity. **The powers delegated in advance directives can only be used during your incapacity. No one has the right to speak for you when you can speak for yourself.**

### **What should I do after I complete an advance directive or appoint an enduring power of attorney?**

Make lots of copies! Make sure those people caring for you and around you are aware of your decisions. It can only work if people know it exists.

**REMEMBER: Laws and documents do not create rights. You already have the right to make decisions about your own care. These written tools ensure that your carefully considered choices are respected.**