

Advance Directives¹

By June Wyrick Flores

What is an advance directive? It is Oregon's form for a health care power of attorney and what is commonly referred to as a "living will". This document allows you to appoint someone to make health care decisions for you if you are unable to make them for yourself. You may give authority to your representative to make decisions regarding life support and/or tube feeding (which is artificial nutrition and hydration by means of medical devices). In addition, you may instruct your representative regarding the withdrawal or retention of life support and tube feeding in the following situations:

- If I am close to death and life support would only postpone the moment of my death;
- If I am unconscious and it is very unlikely that I will ever become conscious again;
- If life support would not help my medical condition and would make me suffer permanent and severe pain; and
- If I have progressive illness that will be fatal and is in an advanced stage, and I am consistently and permanently unable to communicate by any means, swallow food and water safely, care for myself and recognize my family and other people, and it is very unlikely that my condition will substantially improve.

Despite your personal feelings, there is a presumption that every person has consented to receiving artificial hydration and nutrition. However, this presumption does not apply (meaning artificial hydration and nutrition may be removed) under the following situations:

- During your lifetime you told others that you would have refused tube feeding.
- Tube feeding would be medically infeasible or cause severe irreversible or long lasting pain.
- You appointed a health care representative and gave them authority to decide about tube feeding.
- You don't have a health care representative appointed and you do not have an advance directive clearly stating that you don't want tube feeding and you're permanently unconscious. (This means if there's nothing wrong with you except permanently unconscious and you don't have an advance directive, tube feeding may be removed).
- Same as previous, except instead of unconscious you're incapacitated and you have a terminal condition.
- You have a progressive illness that will be fatal and is in an advanced stage, and are consistently and permanently unable to communicate by any means, swallow food and water safely, care for yourself and recognize your family and other people, and it is very unlikely that your condition will substantially improve.

Regardless of how you feel about life support and/or tube feeding, you should execute an advance directive to save your family from any potential conflicts.

¹ This memorandum contains a summary of information obtained from laws, and legal publications and should not be viewed or relied upon as legal advice. Ater Wynne LLP urges readers of this memorandum to consult legal counsel regarding specific legal issues and factual circumstances.