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### Health Care Directives: Is there a Duty to Follow Them?

Health care directives allow you to specify your health care decisions beforehand in case you are unable to express them during a medical emergency. You may be wondering what duty your health care providers have in enforcing your health care directives.

Many people often wonder whether or not their medical care providers have a duty to follow their wishes when it comes to their health care. These wishes are often recorded in documents like living wills and health care directives.

#### **Duty to Follow Health Care Directives**

In general, medical care providers are generally held to a pretty strict duty to comply with your recorded wishes that relate to your health care if you become incapacitated. In addition, if your health care directives or living will appoint someone as a legal agent in charge of your health care (called a health care agent), doctors and other medical providers are also under a duty to follow their orders and decisions about your care.

#### **Exceptions**

However, there are some situations in which your doctor or medical care provider can go against the wishes that you have set forth in your health care directives. Health care providers can do so when:

- The directive set forth decisions that go against the conscience of the doctor or individual medical services provider,
- The directives set a policy that goes against the policies of the hospital or other medical institution based on reasons of conscience, or
- The directives include decisions that would result in ineffective health care, or asks health care providers to adopt health care standards that violate those of the provider, hospital or other medical institution.

However, even if these factors are present, this does not mean that your doctor or health care provider can simply ignore your health care directives. Instead, if your doctor or health care provider thinks that they will go against the wishes and directions set forth in your health care directives, or against the orders of your health care agent, they must immediately inform you or your agent. When this happens, you or your agent will have the option of taking steps to have you transferred to another doctor or medical facility where your wishes and instructions will be honored. Indeed, if your doctor or medical care provider refuses to do so and still goes against your wishes and orders, the doctor may be liable for damages to you.

#### **Pregnancy and your Health Care Directives**

Despite what is written above, doctors and medical care providers may be able to legally ignore your wishes and orders contained in your health care directives if you are pregnant. In order to have your wishes still be carried out, you should specifically state in your health care directives what your wishes are for your care when you are pregnant.

Even if you specify your wishes for when you are with child, your doctor may still be able to override your wishes in order to keep you and your fetus alive. This is especially true if you are in your second or third trimester.

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