

Elder Law Newsletter: Mom Always Knew Best

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by Amy Boulware, Elder Care Planning Manager, (LAP MSW)



'Amy, I really need to talk to you about something important.' My mom said this to me weeks after we found out that her cancer, which she battled for over five years, had returned. My mom and I were very close and talked every day about important and unimportant things, but this request seemed to have a different weight to it. My mom was a valiant fighter and had been aggressively treating her cancer. I was there night and day, holding her head when she couldn't pick it up, feeding her, bathing her, going to doctors' appointments, and being her all-around cheerleader. I wondered what she could possibly want to talk to me about that we hadn't already discussed. I set aside an afternoon to have this conversation.

As we sat next to each other on the couch, she pulled my hand into hers, squeezing it tightly. She said, 'What I am about to ask you is going to be hard, but I need your help.' My mind was racing a million miles a minute... what could she be thinking about? She knew I would do anything in the world for her. So, why was she acting so strangely? She took a deep breath and said to me, 'I don't want your dad to be my power of attorney for health care anymore.'

My mom married my dad when she was 19 years old. They had been together for 48 years. They had traveled the world, raised three kids, had successful careers, and faced happiness and hardship. They had done all of this and more together. My parents had an estate plan and named each other as power of attorney (POA) for both health care and finances. That is typical for most couples. Of course, they would choose their spouse to make some of the most important life decisions for them if they were unable to do it themselves.

In a health care POA document, you give authorization to a certain person (or people) to make potentially life-altering decisions on your behalf. A possible list of decisions your health care agent could authorize would be:

- The right to consent to or withdraw any medical treatment, hospitalization, or health care including life-sustaining treatment;
- The right to select or discharge any care providers or institutions utilized in your care;
- The right to make anatomical gifts;
- The right to access medical records;
- The ability to authorize an autopsy; and
- The disposition of your remains.

My thoughts were racing. Why would she want to take dad off? And then it hit me, she knew dad better than anyone else. My mom proceeded to say, 'We are facing a new phase in my illness, and I am not sure your dad would be able to follow my wishes if he encountered a decision he didn't want to face. He is just too emotional.' My mother had completed an advance care plan (which some people call a living will) outlining what type of care she wanted to receive in the event she was unable to speak for herself. She was very clear about her decisions which included quality of life choices and treatment options. Mom wanted me to be her health care POA because she knew that even though it might be hard for me to follow her wishes, my experience as a geriatric social worker would give me the strength and ability to do so. Once I agreed to do this, the next thing we had to do was talk to dad.

When we discussed her decision with dad, tears rolled down his face. After a couple of minutes, he shook his head and said, 'You are right. I am too emotional.' Mom knew dad better than he knew himself. He never would have told her he didn't want to serve as her POA, but he really wasn't the best person for the job. In my mind, I never really thought there would be a time when I would be called into service as mom's POA. She would beat this cancer, and she would make her own decisions. But, the day did come.

In October 2009, the cancer had spread to her brain, and she was unable to walk, talk, eat, or interact in a meaningful way. One of the criteria she had always said to me was if she was no longer herself and had no hope of getting better, she did not want to continue the treatment. Her doctor offered us an option. They could put a shunt in her head and bathe her brain with chemotherapy. Dad's eyes perked up not wanting to admit defeat. How wise my mother was to recognize that dad would not want to stop.

So, I asked the very difficult question. 'Will this option bring her back to us?' I already knew the answer, but I needed confirmation for my dad. The doctor said it might give us a couple more months. I didn't ask him if it would give us more time, what I asked was would it bring her back to us. Would she be the bright sunshine that she had always been to everyone she touched? Would she know her children or her husband? Would she be able to go back to teaching her first graders? The answer to all of those questions was no.

The decision wasn't really all on my shoulders. She already told us what she wanted, and she had picked me to make a decision because she knew I would help my dad, sister, and brother be at peace. That day we brought her home with hospice care. She lived about four weeks longer, surrounded by those who loved her in a place she loved. Not a day goes by that I don't think about my mom and miss her deeply, but I never have regret over how we handled her treatment. She told us exactly what she wanted, decided who should be the one in charge, and in the end, that was such a gift.

I suspect many of you can relate to these difficult decisions our family had to make. It's not always easy choosing a POA. So, from my experience, here are the questions you should ask yourself when choosing a health care POA:

- Can he/she be a powerful advocate for my wishes?
- Does he/she have an understanding of my health conditions?
- Does he/she understand how I want to be treated?
- Does he/she pay attention to detail?

- Does he/she understand the role and commitments of a POA?
- Does he/she have good communication skills?
- Is he/she trustworthy and able to navigate family dynamics?
- Is he/she available and accessible when needed?

As my example shows, choosing your health care POA is something that you need to revisit on a regular basis. The person you choose today may not be the right person tomorrow. If you have questions about POAs or advance care plans, please contact us.