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DECONCINI MCDONALD YETWIN & LACY, P.C.
ATTORNEYS AT LAW

ESTATE PLANNING LAW REPORT

**YOU CAN NOW MAKE YOUR LIVING WILL AND HEALTH
CARE POWER OF ATTORNEY ACCESSIBLE ON-LINE**

By Nathan Hannah

The Arizona Advance Directive Registry is a web site that allows on-line storage and retrieval of living wills, medical (health care) powers of attorney, and mental health powers of attorney. The address of the site is http://azsos.gov/adv_dir/ (go to the home page of the Arizona Secretary of State web site and look for the link "advance directives").

The registry is maintained by the Arizona Secretary of State and can be accessed by hospitals and other health care providers using a user name and password supplied to them by their patient. The patient obtains that information at the time that the patient stores their document in the registry.

The idea behind the web site is to make it easy for health care providers to locate and refer to living wills and powers of attorney executed by their patients. Currently if the patient does not give such documents to the health care provider, the health care provider doesn't know about the documents and can't act on the directions contained in the documents.

The web site does not make it possible to create the documents on line. The site only allows you to post your documents and make them accessible on-line once they have been executed. In other words, you still have to follow the legal steps for validly executing a living will, health care power of attorney, or mental health power of attorney. After you have stored your documents in the registry, you must give your

user name and password to your doctor (or anyone else you want to have access to your documents.)

The good news is that, despite the impression given by the discussions of these issues that appear in the news whenever a difficult situation arises, the use of advance directives is now widespread, and fairly well understood among health care providers (at least that is my experience). I am told that whenever you are being admitted to a hospital in Arizona, they now ask if you have a living will, and offer to have you sign one if you don't already have one.

Arizona law is pretty clear on the subject of making and implementing a living will and a health care power of attorney. The Arizona statutes that specify how those documents are to be prepared and executed provide considerable detail on what they can include, how they are to be signed, and how to have them correctly witnessed and notarized.

The statutes are also quite clear that health care providers and others who make good faith decisions as directed or authorized under a valid

QUOTE OF THE MONTH

*Men occasionally stumble over the truth,
but most of them pick themselves up and hurry
off as if nothing ever happened.*

Sir Winston Churchill
British politician (1874 - 1965)

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living will or health care power of attorney are immune from being held financially or criminally responsible for the consequences of those decisions. To put it simply, it is not a crime or grounds for a lawsuit to carry out an instruction in a living will to withhold or withdraw life support.

The law in matters of “right to die” is still not absolutely clear in all circumstances. Much progress has been made, however, in clarifying the methods for making your desire to refuse medical treatment (if that is your desire) legally enforceable. A living will and a health care power of attorney that are drafted, signed and witnessed according to the specific guidelines of Arizona law will be almost universally recognized and effective. Anyone who wants to have the ability to refuse medical treatment can and should make those desires known, and make them enforceable, with a living will and a health care power of attorney.

YOU DON'T NEED TO PAY \$83 FOR PUBLIC INFORMATION ABOUT YOUR PROPERTY

Alert readers Jack and Rita Purson sent me a copy of a mailer they received a while ago from Record Transfer Services. It's a pretty slick effort to get you to pay for information about your property.

The mailer leads off with this statement: “Record Transfer Services recommends that all AZ homeowners obtain a copy of their current Grant Deed. This document provides evidence that the property at [your address] was in fact transferred to the individual(s) [your name].” The implication is, of course, that without a copy of your deed, you might not be able to prove that you own your property.

Also offered in the same deal is a “Property Profile.” Here's what the mailer says about what's in the profile: “A Property Profile provides a wealth of information useful to understanding a subject property's makeup. This report includes

the property address, owner's name, comparable values, and legal description or parcel identification number.” Very useful, particularly in case you don't know your own name and address (or maybe you're just making sure that the public records have the correct name and address).

All this information is available from Record Transfer Services for the bargain price (they call it a “processing fee”) of \$83.00. The mailer also contains a “compliance response date,” although it doesn't say that the offer is only good until that date. It's just a way to suggest that there is some urgency, so you better act now.

The mailer has several disclaimers that say Record Transfer Services is not associated with any governmental agency, you can get a copy of your deed yourself from the county recorder, etc. I guess the people behind the mailer figure that the recipients will decide this is an easier way to get the information, or else they figure that the recipients just won't read the disclaimers.

Don't pay \$83 for this information. You already have, on your property tax notice of value and property tax statement, everything in their “Property Profile” except for comparable values. You can get those from the county assessor's web site in most counties in Arizona, or from any one of several commercial web sites for property anywhere in the country.

If you need a copy of your deed, call me. For property in Pima County that you acquired after 1985, I can get you a copy of your deed for free.

***If you like what you read here,
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www.nathanhannah.com/law-blog***

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