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Local News for Monday 3/14/05

Prepare for end-of-life questions, experts say

- Legal, medical pros urge people of all ages to plan for their last days.

By LARRY WILSON
Star-Gazette Corning Bureau

Aging.

It brings different challenges to different people at different times.

Everyone, however, faces its ultimate result -- the end of life.

Few people bother to take the necessary legal and personal steps to guarantee that their wishes will be carried out during both their last days and after their death.

"It shows how death-denying our culture is," said Dr. Gail Gazelle, an expert in palliative care and an assistant clinical professor at Harvard Medical School.

In extreme, high-profile cases -- those of Nancy Cruzan in the 1970s, Karen Ann Quinlan in the 1980s and Terri Schiavo today -- the lack of clear direction for end-of-life care results in lengthy legal disputes.

To avoid the emotional and financial trauma of such disputes, legal experts say adults of all ages should have three basic documents:

- A will, which addresses such issues as how property and money are to be distributed and how minor children are to be cared for.
- A power of attorney that names an agent to make financial decisions.
- A health care proxy, containing a "living will" or "advance directive," that names an agent to make medical decisions and specifies what kind of end-stage care is acceptable.

Michael Martino, a Corning lawyer who deals with elder issues, said everyone over 18 should have a health care proxy.

"It deals with the 'pull-the-plug' issues," Martino said. "It only goes into effect when the principal is incompetent. Everybody has the fear they will be unplugged too soon."

When Martino writes a health care proxy, he includes a declaration of the client's wishes about artificial hydration and nutrition. Both New York and federal legal standards require "clear and convincing evidence" of a person's wishes before doctors

can take action.

"A health care proxy eliminates a lot of stressful situations for families," Martino said.

In Pennsylvania, a living will or an advance directive is drafted separately from a power of attorney that names a health care agent, said Lester L. Greevy Jr. of Greevy & Associates Elder Law Firm of Williamsport.

Greevy, one of a handful of certified elder law specialists in the state, said hospitals in Pennsylvania usually ask for an advance directive on admission.

"I ask clients if they want artificial hydration or nutrition," he said. "Folks want to die with dignity and without pain."

The advance directive takes effect only when a patient is terminally ill, cannot communicate, is on artificial life support and has no chance for recovery, Greevy said.

Why should young people as well as the elderly put their wishes in writing? Cruzan was 25 years old, Quinlan 21 and Schiavo 26 when they became too ill to make decisions about their health care.

Once an advance directive has been written, it is critical to discuss its contents with family members and provide a copy to the family doctor. It is also vital that the document be readily accessible.

"Loved ones need as much instruction as possible," Gazelle said. "One of the major problems with these documents is that they are somewhere where no one has access to them in times of crisis. The ideal thing is to carry something in your wallet."

What happens if family members don't know your wishes and your advance directive can't be located?

"The medical wheels are in motion and it is always easier for the medical system to haul you off to the ICU with tubes in every orifice than to deal with family members who have their own ideas about your care," Gazelle said.

James M. Hoefler, who studies end-of-life issues at Dickinson College in Carlisle, Pa., is less convinced about the efficacy of legal documents.

"What I tell people is the most important thing you can do is have a conversation with your family, your spouse, your siblings and your children," said Hoefler, a professor of political science. "Those documents are discussion starters. If you do have the discussion, you don't need the document."

Hoefler concedes such discussions are awkward.

"Many family members will think it's morbid," he said, "but you have to persevere. Just do it, talk about it and make sure everybody's on the same page. Don't essentially leave them wondering for the rest of their lives."

Cases like those of Cruzan, Quinlan and Schiavo are rare in the Twin Tiers.

"We're not seeing any of those problems in Pennsylvania or New York," Greevy said. "We must be getting the job done."

Martino said doctors and hospitals in the Twin Tiers generally try to reach a consensus

with all family members on end-of-life issues.

"There's plenty of evidence we should all be thinking about what our wishes are," Gazelle said. "There's no guarantee they will be respected if we don't specify."

Being specific is important when crafting an advance directive, Gazelle said.

"Would you be willing to tolerate being put on a breathing machine and would you be willing to have your life maintained on it?" she said. "If you are unable to participate in life activities, would you want to be artificially fed? Where do you draw the line at what meaningful quality of life is?"

A living will or advance directive can also be included in a document known as a "living trust," which takes the place of a will, said Neal Frankle of Agoura Hills, Calif., author of "Why Smart People Lose A Fortune."

The advantages of such a trust are that it saves time and money because it does not have to go through a probate process in court, Frankle said.

"The trust usually includes a health power of attorney," Frankle said. "I have never met anyone who is at a disadvantage from setting up a living trust."

After establishing a trust and choosing beneficiaries, it's important to fund the trust by transferring all your assets into it, Frankle said.

"The trust has no value unless you fund it," he said.

Greevy said it's best to be cautious about creating a trust.

"There are lots of folks around selling revocable living trusts for amounts of money that are outrageous and they really don't do anything," he said. "You shouldn't create a trust unless you have a real reason, such as providing education for grandchildren or providing funds for a disabled person."

Legal, medical and academic experts agree that maintaining some control over end-of-life treatment requires clarifying your wishes, communicating them to others and putting them in writing.

"Don't wait," Gazelle said. "Take action. You're in the driver's seat when you're mentally competent."

Aging in the Twin Tiers

Today and Sunday, the Star-Gazette is running stories as part of a new occasional series on getting older in the Twin Tiers. The purpose of the series is to examine the serious and social issues associated with growing older and to alert all of us to the needs on the horizon.

- A look at the major decisions that must be made as we age.

Sunday

- Senior citizens say embrace life by getting involved.

- The Twin Tiers are getting older fast. What problems will that bring?

Glossary of end-of-life terms

Power of attorney -- A document that names an agent to make financial and business decisions for another person.

Power of attorney for health care/health-care proxy -- A document that names an agent to make medical decisions for people who are no longer competent to direct their own care.

Living will/advance directive -- A document that outlines what kind of medical care is acceptable or unacceptable to a person facing the end of life.

Living trust -- A legal arrangement by which a living person's assets are transferred to a trust so they can pass to named beneficiaries upon the person's death without going through the probate process.