

Planning for End of Life Care

(Video Transcript)

Good afternoon, everyone. Thanks, for joining us and welcome to the ... Quick Webinar where we will cover the topic of planning for end of life care.

My name is Tara Tyler, a Benefit Plan Advisor with MERS, and I will be moderating today's webinar.

A few quick notes before we get started.

Throughout the presentation, you can submit questions using the question tab on your control panel on your screen. I do want to point out, however, that this webinar is meant to be very informational in nature, and we won't be able to answer questions related to your personal situation or offer you individualized advice throughout the presentation.

However, Nicole does have her contact information in the presentation that you could contact her directly at the conclusion of today's webinar. You'll be directed to a quick six question survey.

Please take a moment to fill that out, so we can use your feedback to improve our future webinars

With that, let's get started.

With us today is Nicole Shannon.

Nicole is a systemic Advocacy Attorney with the Michigan long-term Care Ombudsman Program, where she specializes in issues facing older clients and individuals with disability such as guardianship, long term care, and public benefits.

This afternoon, Nicole will walk us through some key considerations we should take into account when making a plan for end of life care.

Although, it's not a fun topic, it's an important one.

And, regardless of your age, we should be thinking about how we want to spend our last days, in the event that our loved ones need to share important decisions with medical professional, family, and friends, With that, I will now turn it over to Nicole.

Hi, folks. I'm just getting my screen setup so that you can see our presentation here.

And so it's going to be OK. Thank you, Tara. Can everybody see everything OK?

Got my presentation up.

Yep. Looks good to me.

OK, Great, so Good afternoon, everybody. I am happy to be here today, and thank you, shimmers for inviting me. Like Tara said, my name is Nicole Shannon. I am a lawyer, and I wear a lot of hats, and one of those hats is as part of the Michigan long-term care Ombudsman program. And so, I'm going to tell you a little bit about who we are and what we do, and then we'll talk a bit more about our topic today, which is Advance directives and Planning for your Future, Medical Care.

So, the Michigan long-term Care Ombudsman Program, We are a private non-profit. We were formerly housed in the State of Michigan. We now contract with the State of Michigan to provide those services. And essentially, we have a federal and state mandate to advocate for residents of licensed long-term care settings. And what that means is to work for folks who are in nursing homes, who are in adult foster care homes, who are in homes for the aged. All of our work is resident directed. And so, that can mean anything from, you know, my food is cold to, I'm not getting the medical care that I need. So I'm a lawyer with the program, and so I will provide legal advice, but most of our work is done by on the ground Ombudsman, who are advocating for our residents every day. So, I'm pleased to be here, in that kind of capacity, talking about things today.

So, like Tara said, this is not necessarily a fun topic, and we're living in really heavy times. But what I do want to tell folks is that this could be pretty easy to do. And this can be an easy thing to do, to give yourself some peace of mind, to check some stuff off your list, and to, you know, give some consideration to the future. So, what I hope folks leave here today with is, that this is not an intimidating process, that this can be done just with you in the privacy of your own home, or it can be done with the assistance of a lawyer. This is something that everybody can do. I am in my mid thirties, and I have executed all that. I've executed a lot of the documents that we're going to talk about here today. This is something really, It's for everybody.

So we're here today, because we all want to be in control of our own decisions advance, medical planning, will let you stay in control, even when you can't participate directly. And what I always tell folks, is that by attending to this now, we can give ourselves and our loved ones, some peace of mind, about the future.

So, our agenda today, we're gonna be talking about, what are advance directives? We'll kind of go through some common types of advanced directives, like durable power of attorney for health care, physician orders for scope of treatment. That's pretty new in Michigan. Living wills do not resuscitate orders, and then kind of what you might want to consider for yourself, as you're trying to decide what to make of all of this that we're talking about here today.

So, we're gonna start with what are advanced directives and advanced directives is kind of a broad term for all of those different types of documents or orders or choices that we're going to talk about today. There are generally written documents where you talk about what kinds of medical care you want and or who you want to make medical decisions for you if you can't decide for yourself. And in general, you can revoke it at any time, regardless of your capacity.

So, before we go, any further, I do want to point out that, you know, contrary to what you might see on TV, or in the movies, in Michigan. Kind of your next of kin or relatives can't necessarily step in to make medical decisions for you if you are incapacitated. And so, it's important to have documents like that like these put together so that there's no confusion and so that folks can act on your behalf when it's necessary. So, let's talk about why an advanced directive might be right for you, and I usually start off these by giving my spiel. Like I said before, I'm 35, I've got one. I think that these are right for anybody who's got someone you trust, who's ready, willing and able to do this. So, a time might come when you can't make these decisions for yourself.

Maybe you've got some specific wishes or expectations about your care. I've worked with a lot of clients who have very specific religious or medical considerations that need to be taken to it into her account where it makes sense that they need to write things out and give some very specific direction. Maybe you don't want your loved ones guessing at what you would have wanted.

You might want to avoid guardianship or conservatorship and the probate court, because like I mentioned before, Michigan, save for a very narrow set of circumstances does not necessarily let family members act on behalf of somebody who is incapacitated, need some medical care. And so the only way to do that often is to go to probate

court and get legal authority as guardianship. So at that point, you're kind of in the probate court system. Most folks, I'm a lawyer, and even I like to stay out of court when I can. And this lets you take control, whereas, if you go to court, you end up losing a lot of control, and it can be just a stressful situation.

So let's talk about some different kinds of advanced directives. Like I said before, we've got durable power of Attorney living, those go buy a lot of different names. Some folks call them patient advocate designations, or healthcare proxies. It really all means the same thing. Living wills. Do not resuscitate orders. I guess I said, do no resuscitate orders and physician orders for scope of treatment.

So let's talk about durable power of attorney for health care. This is maybe the most straightforward type of advanced directive that's out there. It's a legal document that gives someone else authority to act when you're not able to act for yourself. If you want, you can make special provisions in there concerning mental health care and organ donation.

And I know that these are things that are very personal to folks. And, like I said before, it keeps people from having to guess. at your wishes, you can make them clear in a legally binding document. So, what do you need to know if you might want one? You have to be at least 18 years old. And so does the person who want to designate, you have to have capacity to execute it? And what that means is, you have to know what you're doing, what you're asking, who you're asking, and why you're asking it.

So, an example that comes up often in our context of long term care is when perhaps a resident of a nursing home might have advanced dementia and might struggle to, you know, be aware of their surroundings. Understand who's in their life. Understand what they're, you know, what their particular needs are. That person might not have capacity, at that point, to execute Durable power of attorney for healthcare, but the threshold for capacity can be fairly low. I've worked with a number of clients who might have fashionable capacity say to orchestrate a proxy for a shareholder vote or engage in, you know, a complicated real estate or business transaction. But, they can still tell me that they'd like their aunt to be their Durable Power of Attorney, because they know they're, and they trust their aunt.

They know that they need help making decisions, or, that a time may come when somebody else needs to act for them. And they know that they're choosing their aunt Because they've had a conversation about it, and they're and understands their medical needs. So, capacity does not have to be, you know, a high bar.

You can use a form, or you can create your own. And, at the end of the presentation, I'll give you some resources. If you'd like to use a form, you need to think about who you want. You know, maybe this is not an easy question to answer, as you might think. You're probably going to want somebody who's going to be able to act quickly. And so maybe your closest most trusted relative is on the other side of the country. Maybe that's not the person who you would necessarily want to serve as your As your healthcare power of attorney. Maybe it's not a relative at all. Maybe it's a close friend or other loved one who understands you and your values well, who would be well suited to serving in this position? And then lastly, I always ask folks to think about, you know, where are you going?

Because all of this is state specific, and so your power of attorney in Michigan might not work in Florida or an Arizona. Many attorneys are licensed to practice in multiple states, and, in fact, many elder and estate planning attorneys are licensed to practice in Florida and in Michigan. Because they know that many of their clients travel out of state. And so, they want to develop documents that are going to be usable in both places. So, if you travel regularly, you might want to think about whether there are requirements in Michigan that aren't the same as wherever you regularly travel. So, let's talk about when a durable power of attorney might come into play, when can somebody act for you?

two things have to happen: one, you've gotta be unable to participate in medical decisions, and so that could mean that, like I said before, an example from our work. Perhaps somebody's in a nursing home and they've got, you know, relatively Advanced Dementia. Maybe you've been in an accident and you are incapacitated temporarily the doctor responsible for your care and either another doctor or a psychologist needs to conclude that you are no longer, that you no longer have capacity. And at that point, your power of attorney for medical care would be able to act on your behalf. If you have religious beliefs that prohibit examination by a doctor, you can state that in your durable power of attorney, and you can explain how you would want it determined that you were unable to participate in medical decisions.

So what can your medical power of attorney do? What kinds of powers can you give them? While many of the powers are laid out in Michigan statute and essentially there are limits that would prohibit your medical power of attorney from consenting to medical treatment. That goes, kind of outside the bounds of what acceptable medical treatment would be. They are bound to do, right by you. They have what's called a fiduciary duty, and so their job is to do what is appropriate for you. Consistent with your, with, what their understanding of your beliefs are. You can give them the authority to consent or refuse medical treatment to decide to admit you to a hospital and nursing home, or other kind of setting, withholding or withdrawing life sustaining treatment, water, or food.

You can arrange for mental health treatment. You can consent to organ donation, which I know is, you know, it's something that I always talk to my clients about very explicitly, if that's something they, you know, prefer to do or not do, or to consent to a do not resuscitate order. And so those things, where I am, I have the asterix. Those are things where you kind of have to opt in. And so I will be talking more, specifically about a few of those choices in a moment.

So let's talk about mental health options.

This is something where, you know, if you had a very, very bare bones power of attorney for medical decisions, essentially, that person would be able to, you know, consent to, you know, fairly limited types of medical care. But they wouldn't be able to consent to or withdraw.

What's considered kind of extraordinary.

Extraordinary care with mental health. You have to specifically include it, if that's something that you would like to give your power of attorney authority over, You can either say no powers, you can give them specific powers, Or, you can give them pretty broad powers, and you could detail things, like what hospital you would want to go to, if you needed to what kind of treatment, and what kind of medications.

Probably the most confusing thing about mental health power of attorney is that, like I said, at the very beginning of the presentation, you can almost always revoke a durable power of attorney. Maybe you no longer get along with that person. Maybe your wishes have changed. Whatever it is that is happening in your life. You're always allowed to revoke it. The only exception is for circumstance where somebody has consented to mental health treatment on your behalf. The idea is essentially, maybe you right now, today, might think that there's there could be sometime in the future where you would require mental health treatment.

And maybe you would recognize that you wouldn't not be in the right state of mind to revoke your power of attorney. The ideas that you can essentially set a timeframe, and in Michigan, it's no more than 30 days, where, regardless of what you want to do in that moment, if you're having some kind of a mental health crisis, your power of attorney is going to stay in effect for up to 30 days, in the hopes that you'll be able to get some treatment and restore yourself to second some capacity. Again, this is you taking control right now, over what might happen in the future.

So what does your patients and advocates duty? Like I mentioned before, they have to take reasonable steps to follow your desires and instructions expressed to them when you were able to express them.

This can mean having some uncomfortable conversations, but it can also mean choosing somebody who just knows you well, who understands your values, Who understands kind of how you've lived your life. And who would use that information to make the best choice possible. Because if you haven't express your wishes, they just have to act in your best interests. They can and should review your medical records to make appropriate decisions. So please be aware that if you do have an active patient advocate, they will be able to access those medical records, so that they can act appropriately on your behalf.

So who should you choose?

My first, my first item of advice is always to choose someone you trust with your life Literally. They've got to be ready, willing, and able.

Perhaps the person who you have in mind feels uncomfortable with the idea of serving as your power of attorney.

That's OK. You want somebody who is going to be, you know, engage in who's going to be prepared. Should the circumstances arise? So maybe that person who's first on your list isn't prepared to take that responsibility on. And so it's me. It's time to consider somebody else. Often, when we write up Durable Power of Attorney for, for medical treatment, will designate a primary person and a secondary person, if for whatever reason the primary person cannot act, the secondary person will be able to step into their shoes and make those decisions. This can be important. If the primary person is unreachable, if they're out of town, or if for whatever reason, there are no no longer able to act themselves.

Often, when we draft these documents, somebody will choose their spouse to service their primary, and they'll choose a sibling and they'll choose a sibling, an adult child, or another loved one to serve as the secondary kind of backup person. This can be useful if you are going to an attorney and you want to save yourself the expense of having to rewrite documents in the event that your spouse is no longer able to take on that responsibility. But, as I'll talk about later, you know, this is something that you should update whenever there are changes in your life.

Consider your family dynamics when you are, you know, choosing this person. This is something where it can be really useful to speak to an experienced attorney who is used to navigating complicated or not so complicated family dynamics to maybe assist you in making your decisions.

So at this point, folks are usually asking me, Tell me more about the paperwork. Put your wishes and writing. You can get specific, or you can get general. But I always encourage folks, that if something's important to you, you probably want to write it down. It might be difficult in the moment. But as soon as you're done, you're done. And you can check that off your list and have some peace of mind. Be sure you sign the document. And then you haven't witnessed properly. You can have a witness by two adults who are not either relatives, your, doctor, your proposed patient advocate, or an employee of a health facility, or program for your patient or client.

With that last one, we usually run into trouble in the event that, that somebody is trying to sign one of these documents when they're in the hospital, or things like that.

So, like I mentioned before, what happens if I change my mind? Speak up? These documents can be revoked under circumstances, just by saying, for example, if you are If you're in the hospital, or if you're in a long-term care facility, tell your attending physician. You know what? No, I don't want this person serving anymore, or I need to make some changes. As a lawyer, I always like to go a step farther than that, which would be to put it in writing. Revoke it, and have a new one written up if you've got capacity. But, remember, if you're undergoing

mental health treatment, and you've given your patient advocate, or your power of attorney authority, you might have to wait up to 30 days to make those changes.

So this might be a good time to stop and see if there are any questions before we move on to physician orders for scope of treatments.

Hi, Nicole, on business para.

And so far, we do not have any specific question, OK. Alright, Then, we're gonna move onto physician order for scope of treatment. We call it post in Michigan, and some other states call it POLST, because they toss in an L there with the way that they use it. This is very new in Michigan and so I don't have a ton of experience with it, because nobody does, and Michigan, we're all still trying to figure this out a little bit. So a physician order for Scopus treatment. It's meant for Serious Elle seriously ill folks who have limited life expectancy. It's meant to be accomplished, plan, for your care, it's legally binding, even if you lose capacity. If you happen to have a power of attorney or a patient advocate, like I talked about, or guardian appointed by the court, they can execute it if they have authority.

So how's it different than a power of attorney? So, post forms are between a patient and a doctor, powers of attorney or are between a patient and their loved one, a post form, let you give the doctor directions a power of attorney. Let somebody else gives the doctor some direction on their behalf. The idea is that, perhaps, if you have limited life expectancy, you might have times where you go in or out of having capacity by working with your doctor to detail the type of care that you want. The doctor can act on those standing orders, regardless of whether you have capacity, or regardless of whether anybody else's, they're standing in your shoes to make decisions for you.

So, can you have a post form and other types of direct other types of advanced directives? Yes. Post forms will override any written instructions and other advanced directives, but you're probably going to want to make sure that your wishes are consistent between the two documents. And so post, just to kind of sum up, it's meant to be for very specific circumstances.

Other advance directives, like powers of attorney or living wills are much more broad. You know, with an understanding that you don't quite know what the future will hold. A post, tells a doctor what kind of care they will be delivering. Other advanced directives typically decide, the who is making decisions.

So we're gonna move on to living wills at this point and get a lot of questions about living wills and what they mean. They are written documents that tell other folks what kind of care you want to have if you're terminally ill or unconscious or otherwise lacking capacity. They take effect after diagnosis and a determination that you can't make or communicate decisions about your care kind of. Similarly to those powers of attorney that we talked about before.

So, how's it different? I'm talking about all of these things, and they all kind of overlap, and they're all a little bit different from each other, but then they seem a lot the same. So let's talk about how this is different than a durable power of attorney. So yes, there can be overlap. And yes, a durable power of attorney can include specific information about your care, but the way you might want to think about it is a durable power of attorney equals the who, who is calling the shots A, living? Will is more about, the what?

What kind of care would you want? Now you can include that information in a Durable Power of Attorney. You can include it in the Living Well without necessarily even executing a Durable Power of Attorney. Something to keep in mind, because we're in Michigan talking to a group of Michiganders is that Durable Power of Attorney

are legally recognized in Michigan, living wills are not specifically recognize. But whenever you have somebody else acting on your behalf to make medical decisions for you under whatever scheme is in in place, either a Power of Attorney or a guardian or a loved one and limited circumstances where we are allowed to act on your behalf.

People have to take your wishes into account. So even if you're not prepared to, say, Name a specific person, or draft up a durable power of attorney, if you were to put together a living, Well, kind of providing for what kind of care you're interested in, what your values are, and what you would like folks to consider when they're making those decisions.

Whoever it is, who's making those decisions, will have to take that into account.

So why have one? Like I said before, it's a, it's a chance for you to express your, wishes to whoever it is. Who's making those decisions?

Some items that folks might want to consider when they're drafting a Living Will is whether you want to be resuscitated, Whether you want extraordinary measures taken in the event of your incapacity, and what are your hopes for end of life care? I typically send out something kind of like a survey to my clients before I meet with them, to draft up these documents. So that they can consider for themselves, kind of what their values are, and what's important to them in these circumstances. Often my clients are only meeting me once or twice, and so I think that it can be challenging for anybody to consider these items let alone when you're meeting with essentially a stranger to talk about some of the, you know, the deepest things that you might not even share with a spouse or a close friend, so giving some time to kind of contemplate what that might look like.

It's going to enable everybody to ensure that you're getting the type of care under the circumstances that you're looking for.

OK, so before we talk about ... do not resuscitate orders, I just want to check in and see if there's any other questions at this point.

Yes. There is actually, the first one is if a post P O S T, form, an P A L, disagree, which one when? So, that's an excellent question. So, the P O S T, form wins, and, like I said before, this is relatively new in Michigan. So, we haven't seen, and I'm very involved in the state bar section, where folks are handling these types of matters regularly. And, so, this isn't something that's been a huge topic of discussion just because it is so new, and we have not seen kind of, you know, the real-world situations where this has played out. But the post form will override whatever you include in a power of attorney.

The idea is that if you are in these circumstances where you've got limited life expectancy, the type of care that you and the plan that you come up with your, with, your own doctor is going to be really tailored to your specific circumstances. It's going to be guided by medical advice. It's going to be very up to date, because it can only last for a year, whereas your power of attorney is going to be something that could have potentially been drafted decades ago and doesn't necessarily speak to your current situation. So, you can definitely have both. And I would encourage folks that to the extent that you can to update your documents, so that they align with each other. But if you haven't, for whatever reason, that post form is going to be the form that kind of carries the day in terms of the type of care that you're going to receive.

So, thank you for that question.

Yeah, there was a quick follow up to it, too, and it was, why were the post form introduced? So, that's, that's an excellent question, and thank you for that.

The idea, and this is something that it's, it's relatively new in the field, but the idea is that, rather than placing the decision about care in the hands of another person, you can make that decision with your doctor in a legally binding way, without needing to include a third party in the process. So, you and your doctor can sit down, you can chart out a course of care, and maybe you're going to have times where you go in and out of having capacity, but you can know, and you can rest assured that, those decisions that you and your doctor made together. Those are going to carry the day and that you're going to receive the type of care that you came up with. according to that plan, it relieves you of having to include somebody else and those decisions. And, it means that you retain full control with your doctor, over what's going to happen, as opposed to sharing that responsibility or giving that responsibility to somebody else.

Great, thank you. And I have two more, I think we should be fairly simple to answer on, the first one is why as a living will not recognize in Michigan.

So, I think, you know, anything that has to do with, you, know, the Michigan Legislature does, or doesn't do whatever it does or doesn't do, is probably beyond the scope of what I can answer in, in this kind of format. I'll say that there is no, there is case law out there that, indicates that folks do need to abide by it, but it's not included in, in the statute.

The statute speaks to, I think the idea is that if you appoint somebody to make decisions on your behalf, they're going to need to follow your instructions. And so, if you include a living will, they're going to need to follow that. If that person is, is, for example, a durable power of attorney. Additionally, the other person who might potentially be making decisions for you. A guardian that's appointed by the, by a probate court, that person is also going to, is, is required under Michigan law to follow your wishes as best as you were able to express them. So, even though it's not recognized specifically in Michigan law, the two situations where somebody is going to need to look to that document to make decisions. Either as your power of attorney, or as your guardian, they're going to be required to listen to it.

So, I'm guessing, like, you know, and guessing is always dangerous about why, you know, our lawmakers do or don't do what they do or don't do. But it's basically built-in, you know, your wish, you know, having to follow your wishes is built into their duties, as your fiduciary's. Other states do specifically recognize it. But I'm, I'm currently involved in the Michigan Attorney General's Elder Abuse Taskforce, which includes a bipartisan group of legislators who are trying to address a lot of issues that touch on the types of things that we're talking about here.

The sense that I get is that folks don't like to duplicate things, or include laws that are essentially already addressed elsewhere. And so when you're already requiring that, people listen to your wishes. I would imagine that the legislators just did not want to include kind of additional underlining requirement. That folks listen, but, you know, I guess ask your local legislator because I don't know. That's a good question. That's just my educated guess.

All right thing and then the last one.

With the current pandemic of ..., do you have any suggestions what we would do about getting a healthcare directive executed for our elder relatives veteran assisted living since we can't go in and see them to witness form?

Yes, so that's great. That's a great question. And, so, at the end of this, at the end of this, I will include links to you where you can find materials to draw these up, or if you prefer, to have it written up by a lawyer. Often, healthcare facilities will have their own forms that are written up. I know that most major hospital systems have

their own pre printed forms, that, obviously, they can't sign, but they can at least provide the form for folks to sign. So, right now, there is an Executive Order that permits remote witnessing, and remote

I've actually done this in a few situations where if you're able to video chat with somebody, pull up FaceTime, do as Zoom, have somebody bring in an iPad, you can actually witness documents just by doing it over, over, you know, video chat or things like that. So it's a little bit more complicated than that I would want to get into in this presentation, but if folks want to e-mail me after it's done, I guess my short answer is yes. It can be done. It can be done remotely. There are certainly ways to do it, so long as you've got kind of got two-way video to be able to do this, because I recognize it's hard. Because, for the most part, the only folks who are allowed into hospitals or into long term care facilities are staff, and those folks are legally prohibited from being able to do, you know, the witnessing for these documents. So, at least for now, with the current Executive Order. I know myself, other, other attorneys, your practice in this area, we've gotten really good at doing zoom witnessing, and Zoom

All right, thank you so much.

OK, thanks, everybody. So, moving on, and I feel like we just get grimmer and grimmer as we go along, but I will be ending on notes of hope, I promise. So, an additional advance directive, something to you to be aware of is called a do not resuscitate order. It's just a document where you express your wish about what you would want to have happen in the event that resuscitation may be necessary.

You might, why might you want one? Maybe you're at the end of your life, and you want to pass peacefully.

Maybe interventions, like CPR ventilation, are going to cause side effects that you don't want to live with. Maybe, even as you have other advanced directives, a do not resuscitate order might help clarify your wishes and, like the other advanced directives. So long as you have capacity, when you execute it, it's effective, regardless of whether you later lose capacity. When I've been at seminars with other elder attorneys looking at this, we've done we've heard a lot from medical professionals who've spoken to us about, you know, the types of advanced planning that they've done, And whether they would want do not resuscitate orders. Again, I know this is a really grim conversation. But, you know, consider what you want.

You can do it, you know, and then write up your documents. And then you can, you know, consider that taken care of, at least for the foreseeable future.

So, are these documents legally binding, yes. That you can revoke them, like pretty much everything else. There are standard forms to do this, and typically, you would do it with whatever healthcare provider you are working with. It would be you, or your patient advocate, AKA your power of attorney or your legal guardian with that type of authority can execute them, along with a doctor and two witnesses. There are alternative forms for individuals with religious beliefs concerning doctors.

So that takes us to the end of do not resuscitate. And now, we can talk a little bit about what folks might keep in mind as they're trying to figure out what to make of everything that they're hearing here today. So before I move on, I know we just did some questions. But I just want to check in with Tara and see if there's anything else before we keep discussing.

Yeah. There was a follow up to the situation with somebody being in an elderly nursing home. Could be a fellow resident. Be a witness.

Yes, they could. That's a good question. I think we're all getting creative right now. And so, the only, the only thing that I would point out, and it's not something that is, you know, specific in the law, but you always wanna make sure that these areas, you know, clear. And concise. And, as you know, rock solid as possible, would, be to

make sure that the, that the fellow resident also had capacity, and so, like, I said, I'm coming to this from a long term care background. And so, I've worked with plenty of clients who are well into their nineties, who are sharp as a tack. And so, if you can find other residents who are prepared to sign those documents, and as witnesses, that could be a creative way to do it. So, yes, absolutely.

Right, there is a couple of other questions. What if I do a durable power of attorney with only my husband and something happens to him? Will it automatically go to the post?

Know, so that's a good question. So if, if you do a durable power of attorney and only named one person as your primary, and you don't name a backup person, if something happens to that primary person, you essentially no longer have a power of attorney, because there's nobody there to act. A post only comes into effect if you were to do that as well by working with your doctor in those links in those limited circumstances where you have a limited life expectancy for about a year. So those are two separate things. A power of attorney and a post, if you had both of those done.

And for whatever reason, something happened to your only person on the list. For your power of attorney, your post would continue to be active. But your post really one doesn't necessarily have anything to do with the other except for the post kind of overrides any specific wishes that you would include in a power of attorney. So, I don't know if that answered the question, but that is why I always encourage folks, if possible. And it's not always possible for everybody. But whenever it is possible, to name a primary and a secondary person, as your or even three. I mean, I've seen somewhere, the list goes on for quite a ways with potential folks in succession to serve as Power of Attorney for, for health care. But if you can, name at least one backup, just in case.

Right. Yep. That's helpful, because it answered a couple of questions to last question I have is for nursing when require that a person, the advance directive, be documented on there.

And are they legally required to follow?

What is written on the form not provided by their facility?

OK, so this is, OK, so I think if I'm understanding, correctly, you know, you've got your own document that you wrote up, either on your own or with a lawyer, you go to a hospital or a nursing home and they say, you know, we would really rather have it on our form. So, if I'm understanding that correctly, you know, I do know that this happens, it actually happens, it happens a lot with financial powers of attorney where banks tell folks that they really like their forms better. Your document is just as valid. It has just as much force as if you had done it on their forms. And so, I would politely but firmly explain that, you know, you've already had your document written up and that you would like that noted in your record. Yes, they do have to follow it.

With, one, I'll guess I'll say this is a yes, and, or a Yes, but, which is a lawyer way of answering a question.

So, yes, they do have to follow it, but the facility, the hospital, or the nursing home, or whoever is following it, typically. It's only going to be looking at, kind of like the checkbox things, like who is acting.

Do they have authority to consent to, know this type of care, they're not necessarily going to be wading into the document. To determine whether or not your power of attorney is really making decisions that reflect. You know, what it was, that you were looking for. You know, and your hopes and dreams as detailed in the document. Just as a practical perspective, that's been my experience with facilities, they're not necessarily going to be reading through line by line, to see if your Power of attorney is acting in accordance with your wishes, with the big things. I think they do a better job with the big things like organ donation cessation of life sustaining treatment, mental health care. Yes, they will look and see if you've got that authority, but with the things that are maybe

more nebulous, or things that are more, I guess less medical and more personal preference things like, you know, I would prefer to have my family at home or my family with me.

Or I would prefer, you, know, you know, should be receiving care in this type of a setting.

The facilities or the providers are not necessarily going to be, you know, declining to listen to your power of attorney.

If they're doing something that doesn't exactly line up with that. So, I don't know if that answered that question.

May follow up questions is: Can you restate what hope? For?

Sure. So post is a physician or physician order for standing treatment. And so it's essentially just these are your standing orders for care. If you are at the end of your life, you and your doctor can come up with a plan. And that plan will override anything else unless you revoke it and it's meant to stand up to situations where you lose capacity. I think that it's a particularly useful tool for folks who might not necessarily have somebody who they feel comfortable designating as a patient advocate. But they can rest assured knowing that they're going to receive the care that they want and that they need even if they're no longer able to kind of consent to it in the moment on their own. Because they've lost capacity.

Wonderful. Last question. What happens if you're traveling, you're out of date, you're on vacation and something happens where you need your durable Power of Attorney.

So that's a great question. I'm glad they brought it up, so. So something. So Michigan, until very recently I think that they just discontinued it maybe at the beginning of June, they used to have something that was called the, I think it was called like The Peace of Mind, Repository or something like that. And it was essentially a web based service for free through the state of Michigan where you can upload your documents. So they would, would be accessible in the event that you know, needed it, and you didn't physically have it with you, I think it's one thing if you're going, you know, I'm going to the hospital, I'm going to have surgery. I will take this document with me.

But certainly, there are situations where do you need medical care, and it's in an unexpected situation, you know, you get into an accident, or something happens, and you don't have that document with you. Something that I so one option is, if you have a lawyer who drafted it, to contact the lawyer and have them send you a copy. Something that I do is to upload it to the cloud. If you even just e-mail it to yourself or e-mail it to the people who would be serving as your power of attorney. You don't need the original copy is just as good as the original. And so, if you just keep an e-mail, or you have it accessible somewhere, where you can pull it up on your, you know, e-mail, or you can pull it up. You know, on your, on your Cloud or your Google Drive or something like that where you can pull it up.

That's going to be just as, you know, just as useful, just as legally valid. So those are some options.

I know, in Mid-Michigan, Sparrow Hospital System actually has an option where you, if you're part of their, kind of like, Web, Web portal, you can just upload the document directly to their Web portal, and it stays with your lab results and, and other things like that. So, it might be that your provider has the option, but obviously, that's kind of, you know, if you can think about it in advance. But if you just need it in the moment, like, I'm traveling, I'm up in the UP. I don't have my document! You know, if somebody can pull it up on their e-mail, or if you can pull it up on your e-mail, that's a way to still have that.

No, accessible to you.

No matter where you go.

A great solution, follow-up to, that is, I believe you had mentioned earlier that the Durable Power of Attorney is legally recognized Michigan, but may not be recognized in another State.

Is that that true? Would this may not be honored in another state?

Yes. And so, I think this is a situation where, at least in my experience, I'm going to say, it depends. I think it depends on probably whatever the lawyers for, you know, Let's say you're on a road trip to, know, in the future one day, when we're all together again, you're headed to Indianapolis. To go cheer on the Spartans at the Big 10, you know, basketball tournament. And something happens. you get into an accident in Indianapolis. You know, maybe you know, in Indianapolis, the hospital may or may not accept your power of attorney for, for healthcare at that point.

This is, this is a topic of discussion among members of the bar. I'd say it really depends, It probably depends on whatever their lawyers told them, what they can or cannot accept. The I mean, what it really comes down to is every state has their own specific requirements for what has to make a Power of Attorney valid. In Michigan, we changed our rules and, I think 2012 to require that. Not only does the person executing the document have to sign it, but whoever is serving as the agent, whoever serving as the Power of attorney also has to sign an acceptance that explains kind of what their duties are and what the rules of the road are. So, every state is a little bit different terms of their requirements. I know that it sounds maybe a little unnerving to hear a lawyer tell you that, like, me, that maybe the hospitals are a little, you know, that there's not a hard and fast rule there.

I think, I think, for the most part, if it's gonna, you know, if it's supporting who you want in charge, and what your general wishes are, it's not going to be an issue.

I think that it would be, you know, relatively unusual circumstances where that would not be followed. But if you're regularly traveling, Especially thinking of folks who have vacation homes, or, you know, regularly travel to a certain place out of state, it might make sense to make sure that whatever you've got is going to comply in both situations just to give yourself a little bit more peace of mind.

All right. Thank you. That was the last of the questions so far.

OK, so, I think this is just kind of our round up time. So, what do you want to think about? You know, I've given you a lot to think about. This is, you know, we're all sitting at our computers during covert times. This is, you know, this is challenging, but I do want to be hopeful and say, this is easy to do. I mean, it might be a little bit uncomfortable, but I think it's like ripping off a band-aid or eating your vegetables. You'll be better for it. If you do it, and you can just kinda get it out of the way. So, things to think about. What do you want for your treatment? That depends from person to person. Maybe you haven't even thought about it, but this would be a good time to consider it. Do have somebody who you trust to act for you. If you: do: you know that person in a: in a good position to be able to assist you, are they on the other side of the country?

Even if they are, maybe just, you know, knowing that they can pick up the phone to give some, you know, to give consent or to act immediately, that might be enough. What are your personal beliefs?

That might guide what kind of treatment you want in the future. Like we just talked about, are you on the go a whole bunch. If you are, maybe you're somebody who's going to want to work specifically with a lawyer who either is licensed to practice or knows, and you can work with somebody who's licensed to practice in the state that you travel to regularly.

What's your doctor's advice? You know, you might want to talk to your doctor about this, because maybe you want to make sure that whatever information you're including in your advanced directive is going to, you know,

fit in with, you know, what your doctor's advice is for your specific situation. And then, you know, what do you think about for the end of life care?

Because, I know that we talked about this, and you know, this, this presentation is, kinda build us, end of life care, but I think this can be, you know, you know, you got into an accident and got knocked out, and you're going to be fine, and you know a few weeks, but right now you need somebody to help you out.

You know, this is, this is end of life care, but this can be no brief periods of time where you're just not able to act on your own, so, so consider those things.

So, what do you do after you sign? And this kind of, you know, comes back to that question about, you know, what if I'm on the go, and I don't have a, So, one, I would say, share with your loved ones. Share with your medical professionals. You know, make copies, scan, e-mail things like that Keep a copy accessible and buy accessible. That doesn't necessarily mean that you've got, you know, a copy tucked in the top of your desk drawer. It can mean that you've got an e-mailed to your key people. So, that they can pull it up if they need to. Or that you've got it stored on some type of, you know, Internet storage, things like that.

If you can, bring it with you to a hospital, a long term care facility.

But I know that that's not always possible, which is why you might want to keep a copy accessible. And then update it from time to time. You know, that's one of the reasons why you wanna name backups is that maybe your primary person, as, you know, is no longer, you know, able to participate. So, you've got your your backup. But, you know, life changes, circumstances, change. You know, your wishes might not be the same at, you know, 40 as they are at 80. And so it's important to go through and update it from time to time. Even if it's just, you know, making those considerations to yourself and kind of reasserting that. Yes. Those things that I said before, I still want them.

So, if you want any of these types of advanced directives, what can you do? So, so the Durable Power of Attorney for health care has some standard forms that are available in Michigan. My organization, the Michigan long-term Care Ombudsman Program, has forms. I think that if you look at the handouts that are available in this webinar, you can see, it's the M L T C O P, I wish that acronym were easier to say, Booklet is available. The Michigan Legislature also has forms. They provide this booklet to all legislators and the legislators will send it out to constituents who have questions. Both of those documents get into a lot of what I talked about here today, and provide you with information on other kind of similar, related documents, So you can use those forms.

But if you've got circumstances where you feel like, know, I think that, you know, the cookie cutter approach is just not going to be right for me, or I travel regularly, or for whatever reason you've got circumstances. where you just want a little bit more of, a personalized touch. An estate planning attorney can help you create some customized advance directives. And so if you want to find a lawyer, I always tell folks as family or friends for referrals, there are plenty of excellent estate planning attorneys out there all over the state, who would be, you know, well situated to be able to handle this. And it doesn't need to know, cost, an arm and a leg to do all of this. If you are looking, if you need to find a lawyer though, and you really don't know where to turn, the state Bar of Michigan does have a lawyer referral service. There is a modest fee, I believe it's \$25.

But if you tell them that you're looking for an estate planning attorney in your county, they will connect you with somebody who is told, who's told the State bar that they're willing to take referrals, and you can have a 30 minute consultation with that person. And if you decide it's a match, then you can decide what kind of billing arrangements you want to reach in the future.

I'm also affiliated with the Michigan Legal Aid Programs, and we have, we have a program called Michigan Legal Help, where we work with the state bar and the Michigan courts. If you click on the link to Michigan legal help dot org, the Guide to Legal Help, you may be eligible for assistance from a legal services attorney. Many offices regularly draft these types of documents.

Many offices do have income limits, but they also have this special funding that enables them to do this kind of work for folks who are 60 or over, without necessarily being bound by those types of income restrictions. So, some ideas on how to find lawyers. If you're wondering, can I do this for you? I'm probably not the best person to do it, because I'm grant funded, and I have a lot of restrictions on what I do, and, and cannot what I can and cannot do, but I'm happy to point folks in the right direction or answer additional questions.

So, if you do have those questions, feel free to contact me. So, my name is Nicole Shannon, with the Michigan long-term Care Ombudsman Program. My e-mail address, you can see right here, it's N Shannon, M E J I, dot, O R G, because my parent organization is the Michigan Elder Justice Initiative, that's the M E J I, and our website is WWW dot M L T C O P dot org So, Michigan long-term Care. Ombudsman, Program dot O R G. So, I think that is the end of me talking at you, but I would be happy to answer any additional questions that folks have at this point.

Thanks, Nicole. It was a great presentation. Um, an opening question: Can you have a DNR? For extraordinary circumstances? Example, a heart attack or you quit breathing, but potentially, it can be brought back to recover versus ending up as a vegetable.

So I think that, depending on your circumstances, this is probably something that, so I'll say first, this is absolutely something that you can include in a living will, that you can include in a, in a, in a power of attorney. As far as the as far as DNR go DNR go you can't get nuanced, but they tend to be pretty black and white. And so, if this is something where, this was going to be an issue for you that you only want it to be resuscitated under a narrow set of circumstances, I would have a conversation with your medical professional about that, and along with any of your folks who might be acting on your behalf. And this is for two reasons why.

You know, legally, you wanna make sure that, you know, this can be valid, but to practically speaking, you know, when you're in the heat of the moment in an emergency, what you don't want folks doing is reading through your medical documents, trying to figure out, you know, what you do and do not want. And so I would say the best way to handle that is by having very frank conversations with folks to make sure that everybody understands what your wishes are at the outset.

But, in general, medical providers tend to view. The answer is fairly black and white. And so as opposed to, yes, resuscitate under these circumstances, but do not under these circumstances. So, I would strongly encourage folks to have who, who, you know, if, if those are your wishes, to have that conversation with your medical professionals, and with the other folks who are acting on your behalf, to make sure that your wishes are going to be adhered to.

Yes.

All right, Thank you. Well, you mentioned, in Michigan, that family doesn't always get to make the decisions on your health care.

Um, could medical decisions resulting from an accident actually be taken away?

I think I'm a little bit confused, but about that question about having the decisions taken away, But I think I'll try to answer it as far as I'm understanding the question.

So, in Michigan, so, I think in most states or in the movies, or things like that. You'll usually see, you know, there's an emergency and the doctors are racing down the hall at a family member, shows up And they'll say, I'm their daughter. And so, the medical staff will immediately start speaking up to that person about making, you know, serious medical decisions, because that person is incapacitated there in a coma or things like that.

In Michigan, family members are only automatically allowed to make medical decisions under extremely limited circumstances and that is essentially where you know, somebody is you know, gravely ill at the end of life, so?

So, in terms of, you know, being able to make decisions, I guess, can you read the question again? Because I'm, I'm trying to kind of think through how best to answer it. Sure. Yep.

You mentioned in Michigan that family doesn't always get to make decisions on your health care.

Could medical decisions resulting from an accident be taken away?

So, um, so I guess if you're, if you're in an accident, it would really depend on your life expectancy, But if you're, you know, if you're in an accident, and there are emergency decisions to be made under Michigan law, the, you know, the healthcare provider, let's say, like, the emergency room doctors or the hospital, they're allowed to act without your consent to, you know, to try to save your life. But the situations where this comes up for me is, you know, once you're stabilized, and the kind of immediate emergency has passed, but you still are incapacitated for whatever reason, at that point the hospital is going to need somebody to act on your behalf. And typically, what will happen at that point is the guar is the hospital is going to encourage, you know, whatever loved ones are around to petition for guardianship, which would be to go to court, to ask to be appointed. As, essentially, that person's legal proxy to make decisions.

For a lot of reasons that go way beyond the scope of this presentation, that is not something that anybody wants to do if they have any choice over it. That is why I always give the really hard sell on drafting up these documents, because I don't think anyone, any of us, want our family members, having to go to, you know, having to go to court, to get authority, to make sure that we are receiving medical care, or making you know, medical decisions. And kind of like the medium to longer term. It also means that you lose control a lot because the court does not have to necessarily appoint a family member, they could appoint a corporation or other folks along the way, it's just, it's just a big loss of control. And so the tools that I've talked about here really enable you to keep that control. You can keep it in the family. Keep it with a loved one. You don't need to go to court, if you have already specified. who gets to act on your behalf?

So that's kind of my my long answer to that question.

She said, Thanks, great advice, and you answer her question, OK, awesome, any other questions that look like that's about it?

OK, great, well, thank you so much, everybody, for letting me be here. And like I said, I know that this is kind of a dark topic during a dark time, but I do want to, you know, again, say that this is, you know, it's easier than it seems, at least from a logistics standpoint.

I've got the forms right here, you can have them, you know, witnessed, you know with some relative ease and once you do it, I think that it will be released, especially now that you've sat through this presentation. And I've planted all these ideas. You know, if you can just take care of it, you're going to be helping yourself, you're going to be helping your loved ones, and you're going to be, you know, planning for the future.

And you can just kind of, you know. Let that go for now, and check one more thing off your list. I'm happy to answer any questions. This is really doable. I encourage folks who want to read up more on their own, time to check out the materials that I've included here with the legislature and my organization's booklet to try to do a little bit of planning and because this is, it really is for everybody. This is something for everybody, regardless of your age, regardless of your medical status, whatever is going on, anybody can do it. And, you know, it's useful, I think, to, to all of us who've got, you know, somebody in our life, who's going to be, you know, reading, ready, willing, and able to act on our behalf. So, thank you so much, everybody, for having me.

Wonderful. Thank you so much, Nicole. That was a wealth of information and we appreciate everybody who attended today as well. In conclusion, we just want to thank you guys for attending today's webinar. Please remember to fill out the webinar survey. It's, again, a short question survey. And then, following the webinar, you will receive an e-mail with a link to the webinar and the handouts and form that Nicole had mentioned. So, again, we appreciate you attending and enjoy the rest of your day.

Thanks, everybody.