



HELP[®] Is Here

a non-profit education and counseling center for older adults and families

2007 Number 4
\$5.00 U.S.

That Free Lunch May Give You More than Indigestion



The Securities and Exchange Commission (SEC) and other regulators recently issued their report warning of the “free lunch” seminars regularly targeting seniors. The report was based on a year-long examination conducted by the SEC, the Financial Industry Regulatory Authority and state securities regulators.

Among the findings:

- 100 percent of the “seminars” were instead sales presentations. While many sales seminars were advertised as “educational,” “workshops” and “nothing will be sold,” they were intended to result in the attendees’ opening new accounts and, ultimately, in the sales of investment products, if not at the seminar itself, then in follow-up contacts with the attendees.
- 59 percent reflected weak supervisory practices by their firms.
- 50 percent featured exaggerated or misleading advertising claims. Examples included “Immediately add \$100,000 to your net worth,” “How to receive a 13.3 percent return” and “How \$100K can pay 1 Million Dollars to Your Heirs.”
- 23 percent involved possibly unsuitable recommendations.

For example, a risky investment recommended to an investor with a “conservative” investment objective, or an illiquid investment recommended to an investor with a short-term need for cash.

- 13 percent appeared to be fraudulent and have been referred to the most appropriate regulator for possible enforcement or disciplinary action.

Go to sec.gov/news/press/2007/2007-179.htm for the SEC press release and a further link to the full report. ❖

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H.E.L.P. (Healthcare and Elder Law Programs Corporation) is a nationally recognized, private, I.R.C. §501(c)(3) non-profit education and counseling center providing impartial information to older adults and their families on elder care, law, finances, consumer protection and more.

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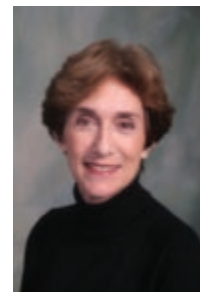
About H.E.L.P. Is Here

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A Gift to the Community

by Helen Dennis



As Board chair, I am delighted to share with you recent events and some perspectives of issues facing mid-life and older adults.

Thanks to Toyota Motor Sales, U.S.A., Inc., we introduced CEO/President Joe Cislawski at a fabulous reception at the Toyota Automobile Museum. Joe, a graduate of Harvard's Kennedy School of Government, has extensive experience in public policy and leadership of non-profit organizations, many with an aging focus. With Ed and Pat Long's continued involvement, we have a winning formula.

Our evening had a bonus. Board member Jimi Anderson pledged \$100,000 to honor Ed and Pat's vision and leadership. This is the largest gift in H.E.L.P.'s history. This is just the beginning of our larger reach and vision. Our dream is to have a service like H.E.L.P. available to every community.

As our population ages and more individuals reach older ages, the United States is faced with challenges:

- The need for long-term care services will increase.
- Medicare is likely to be short of funding in about 12 years.
- About 50 percent of employees have employer-sponsored pensions.
- The Social Security trust fund will start coming up short by 2040. If nothing is done, those collecting in 2040 will receive 74 percent of the promised amount (see ssa.gov/qa.htm).

Combine all of this with a national negative savings rate – the United States has significant short-term and long-term problems.

H.E.L.P. cannot fix systemic difficulties. It can and does help older adults and their families make the best possible financial and care decisions.

H.E.L.P. is a gift to our community. The up-to-date educational programs and objective counseling encourage planning and proactive decision-making that increases opportunities for a life of security and dignity.

Your support makes a difference. The Board joins me in working with you to enhance the quality of life of older adults and their families in our community and beyond.

Helen, a specialist on aging, employment and retirement, chairs the H.E.L.P. Board of Directors.

H.E.L.P. Classes:**Life Planning for Grown-Ups**

Concerned about your future or about an older family member or friend? Want to learn and plan ahead in a safe environment?

Our popular classes cover powers of attorney, probate and avoiding it, wills and trusts, capital gains and estate taxes, types of care, care costs, long-term care insurance, Medi-Cal for nursing home care, and much more. Our next series are shown below.



Our classes make complex topics understandable.

Life Planning classes are free, donations are invited.

More classes are being scheduled.

Call

(310) 533-1996

or check

help4srs.org

for information.

What

Estate and Incapacity Planning

What's a Power of Attorney? Will a Financial Power of Attorney help me? What the heck is HIPAA? How can my family avoid a Schiavo tragedy? No will - no trust - then what? Should I add my kids to my home deed? Should I avoid probate? Do I need a Living Trust? What is the capital gains residence exclusion? How can I minimize estate taxes? What does my A/B Trust mean?

Care Planning and Options

How can we get care at home, in assisted living, nursing homes? How much will my care cost? What are the differences among kinds of care? What is Hospice? Should I buy Long-Term Care Insurance? Can I afford to? Can you self-insure? Will Medi-Cal take our home? Will Medi-Cal pay for dad's care? How will the new Medi-Cal rules impact my mom?

When

January

16th, 23rd and 30th
5:45 to 7:45 pm

February

6th, 13th and 20th
5:45 to 7:45 pm

Where

J. H. Hull Adult Center
Torrance Adult School
2080 West 231st Street, Room 2
Call (310) 533-1996 for reservations

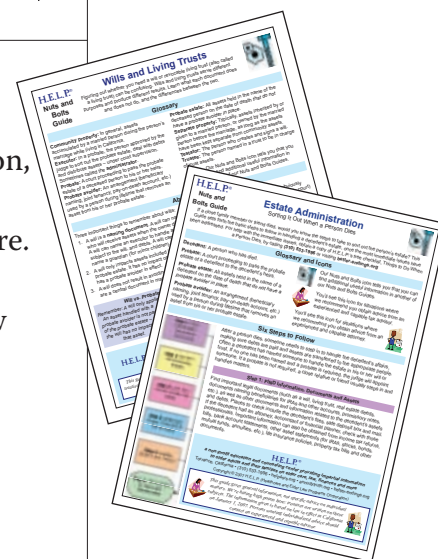
Free New Nuts and Bolts Guide

See pages 9 through 12 for *Health Care Powers of Attorney* – a plain-paper version of our newest Nuts and Bolts Guide. Following this guide will help you obtain the medical and other care you want even if you become incapacitated.

This is the eighth in the series. Our other guides will help you learn the essentials of wills and trusts, probate,








avoiding probate, estate administration, capital gains, estate and real property taxes, the Medi-Cal program and more. These laminated guides provide solid and concise information based on law in effect in California.










The guides are available by mail, at our classes, at help4srs.org and at the H.E.L.P. Center. See page 15 for more pricing and ordering information. ❖





Day-in and day-out we provide information and referrals on valuable community services. Listed below are those on our most active list. The symbols are explained at the bottom.

	Adult Protective Services After Hours - Elder Abuse Hotline	(888) 202-4248 (877) 477-3646
   	ADVANTAGE (Torrance Memorial Medical Center)	(310) 517-4666
 	Alzheimer's Association	(800) 272-3900
	Area Agency on Aging	(800) 510-2020
  	Beach Cities Health District	(310) 374-3426, ext. 149
 	Bet Tzedek Legal Services	(323) 939-0506
	California Association for Adult Day Services	(916) 552-7400
  	CANHR (California Advocates for Nursing Home Reform)	(800) 474-1116
 	Cancer Information Service	(800) 422-6237
	Dispute Resolution Service (L.A. County Bar)	(213) 896-6533
	FOCAL Point (Torrance)	(310) 320-1300
   	H.E.L.P.	(310) 533-1996
	Health Insurance Counseling (Center for Health Care Rights)	(800) 824-0780
  	Little Company of Mary Solutions Center	(800) 618-6659
	Long-Term Care Ombudsman	(800) 334-9473 (562) 925-7104
	Los Angeles Caregiver Resource Center	(800) 540-4442
 	Independence at Home	(562) 492-9878
 	National Hospice Organization	(800) 658-8898
 	Redondo Beach Senior and Family Services	(310) 318-0650
	Senior Legal Hotline	(800) 222-1753
	Social Security	(800) 772-1213
	South Bay Bar Association Attorney Referral Service	(310) 787-9184
  	South Bay Senior Services	(310) 325-2141
  	Stroke Association of Southern California	(310) 575-1699
  	Wellness Community - South Bay (cancer support)	(310) 376-3550

- | | | |
|---|--|--|
|  Elder abuse reporting |  Information and referral |  Legal matters |
|  Health or medical |  In-home social services |  Nursing home problems |
|  Adult day care |  Support or listening |  Financial or insurance |

None of Us Will Get Out of Here Alive

Question: When my Mom died, my sisters-in-law and I got into a big argument about the funeral arrangements. I think everyone was trying to do the right thing, but we disagreed and there's still anger about this. What can my family do so this won't happen to us again?

Answer: What you experienced was painful; in the midst of grieving over the loss of your Mom, you ended up fighting with your sisters-in-law. Unfortunately, what you experienced is not unusual.

Families in our American culture don't want to talk about death, especially in advance. We won't face the fact that the death rate remains at 100 percent. As a result, when a family member dies we end up arguing about the arrangements – people want to do the right thing, but they don't agree on what that is. And families end up making guilt-laden decisions and overspending for funeral and burial arrangements.

Planning ahead

To avoid this in the future, you and other family members must do some advance planning. We're not necessarily talking about prepaying for funeral and

burial arrangements. We are talking about thinking about and spelling out what each of you want for yourself.

At H.E.L.P., we've created a handy form called "Instructions Concerning My Funeral and Burial Arrangements." We can mail it to you, or you can go to better-endings.org/arrangements.php and print it out right now.

By using the form, you write down your wishes on things like

- The location of any services.
- Who should conduct any services.
- The content, style, length and timing of services.
- Your burial location.
- Cremation.
- If cremated, what to do with your ashes.
- Caskets and vaults.

see *Get Out Alive* on page 6



More Acclaim for H.E.L.P. Services

Demonstrating its reach far beyond the local neighborhood, H.E.L.P. and its services have been featured in *The Baltimore Sun*, *The Boston Globe*, *The Detroit News*, *FoxNews.com*, the *Los Angeles Times*, *MONEY Magazine*, *MSN Money*, *The Oklahoman*, *The Orange County Register*, *The Star-Ledger*, the *VFW News* and *The Wall Street Journal*.

Just before this issue went to press, H.E.L.P. and its services were featured by syndicated columnist Kathy M. Kristof in "Estate planning can help you rest easier" which appeared in the *Los Angeles Times* business section on Sunday, October 28, 2007. ❖

Get Out Alive

- Clothing and jewelry you would wear.
- Flowers.
- Pallbearers.
- Music and readings.
- Who should be notified.
- Receptions and gatherings before or after services.
- Memorials, tombstones and markers.
- How services and burial should be paid for.

Payment arrangements

Set aside adequate money in a joint account or pay-on-death account with your bank. That way, when you die, the joint account holder or pay-on-death beneficiary should be able to immediately access the funds. Make sure to let others know about these arrangements.

Funeral homes provide advance-planning services and

“Set aside adequate money in a joint account or pay-on-death account with your bank. That way, when you die, the joint account holder or pay-on-death beneficiary should be able to immediately access the funds.”

will help you with investigating options and pricing. In this “pre-need planning,” they will offer a prearrangement contract and combine it with a way to pay in advance (e.g., an insurance policy or burial trust). Note that only those items within the control of the funeral home can be covered by its arrangement (they can’t lock in grave opening and closing costs, flowers, etc.). See **Additional resources** below.

Communicating

When you’ve written down your wishes on funeral and burial, you need to make sure that your family members either receive a

copy or know where to find your written wishes when you die. The same applies if you have prepaid for arrangements. And remember to keep this communication up to date.

Additional resources

- *The Consumer Guide to Funeral & Cemetery Purchases* by the California Department of Consumer Affairs. Go to cfb.ca.gov or call (800) 962-5210.
- *Life’s a ____ - And Then There’s a Funeral to Arrange* from H.E.L.P. Go to better-endings.org/funeral.php or call (310) 533-1996. ❖

Special IRA Rule Expires December 31, 2007

There’s good news for those who care about and support qualified charitable organizations. Under a rule passed by Congress in 2006, if you are 70½ or older you can have money from your IRA sent directly to the charitable organization of your choice, with no tax cost or concern about deductions. The new rule applies to the 2006 and



2007 tax years only, and allows giving up to \$100,000 each year. The gifts even count against your minimum distribution requirements. When you give this way, the money withdrawn is not taxed, and you don’t have to worry about the deduction rules. This is a Federal income tax law and California has conformed its state income tax laws.

Cautions: Never give away money you may need. Although the new rule applies to H.E.L.P., it doesn’t apply to all charities. The gift must be made directly from your IRA trustee to the charity. Check with your tax advisor.

Get the Best Nursing Home Care

Let's say you've done a great job investigating the available skilled nursing home facilities, and have selected a nearby nursing home to care for your mom. Even better, your mom participated in the selection, and agreed with the choice.

Making sure that your mom gets the best care in the nursing home calls for preparation, supervision and assertiveness. The fact that the home is nearby will help you in that regard.

Preparation

Probably the most important preparation work is to make sure that the nursing home is prepared to meet your mom's needs. You should discuss this in advance. Also, by law the nursing home must complete a full assessment of your mom's condition within 14 days after admission. After the assessment, there should be a meeting to create a care plan tailored to your mom's needs. The doctor, nurse and other staff should work with your mom and you.

Another part of your preparation is learning the legal rules that apply to nursing homes. See **Other resources** on page 8 for help with that.

Supervision

You and others who care about your mom need to **visit frequently** to make sure the care plan is being followed, and to see whether your mom's condition or

needs are changing. You can't help fix problems that you don't see.

Your mom will be cared for by the nursing home staff (administrators, nurses, caregivers, etc.). Remember, they are people, and want to be treated respectfully. You need to get to know them and, likewise, show them that you care about your mom.

Further, it's smart to **vary your visiting times**. This will help you get familiar with more of your mom's caregivers, and see what's being done (or not done) at different times of day.

Assertiveness

Your mom deserves high-quality care. Care and other problems can and do arise in nursing homes. To resolve them you will need to **speak up** early and clearly. Through your supervision work you'll know whom to speak with first.

Many problems can be solved through discussion and negotiation. As calmly as you can, state what you've observed and tell the staff what you'd like done; listen to what the staff has to say. Be persistent, and take the problem higher within the organization as needed.

If you do not make sufficient progress, contact the Ombudsman Program. Established by Federal and

see *Best Nursing Home Care* on page 8



“Making sure that your mom gets the best care in the nursing home calls for preparation, supervision and assertiveness.”

Want a Free Program for Your Group?

For groups of 25 or more meeting in the South Bay, we will come out and give a free 30- to 45- minute program on issues and services that especially impact or help seniors and those who care about them. If you are interested in arranging a program, call us at (310) 533-1996 or e-mail us at programs@help4srs.org.

Best Nursing Home Care

California law, it helps resolve problems in nursing homes. Here in Los Angeles County call toll-free (800) 334-9473. Elsewhere in California, call toll-free (800) 231-4024. In other states, see the government section of the local telephone book.

Other resources

Become knowledgeable about the **legal rules** that apply to nursing home care. Do that by

reading both *20 Common Nursing Home Problems – and How to Resolve Them* from the National Senior Citizens Law Center (call (202) 289-6976 ext. 201 or go to nslc.org/NSCLC/consumer) and the *Nursing Home Companion* from Bet Tzedek Legal Services (call (323) 939-0506 or go to bettzedek.org/publications.html).

Check to see if the home has an existing **family council**. Consider

starting a family council, if one doesn't exist. These councils can be a good tool for making positive changes.

You might also consider retaining the services of a **private geriatric care manager**. A care manager can help supervise care, suggest changes and solve problems. Call us for our information sheet or go to caremanager.org. ❖

Women at Greater Risk in Retirement Security

The United States Government Accountability Office (GAO) just issued a report on the financial security of women in retirement. **The report's findings should be considered in the upcoming debates on the future of Social Security.**

Among other things, the GAO found that

In general, women have less retirement income than men, largely because of women's lower labor force attachment and lower earnings, on average. Fewer women than men have income from most major retirement sources, and women have less income from these sources. Women's

median Social Security income is 70 percent of men's. Also, fewer women than men have pensions. Among the population age 65 and over who continue to work, women earn just over half of what men earn. Women also have somewhat smaller income than men from assets, such as interest and dividends. Accordingly, rates of poverty among those 65 and over are substantially higher for women than for men.

The GAO points out that

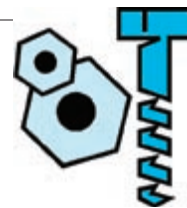
Women aged 65 and over will account for a growing segment of the U.S. population over the next several decades.

Despite increases in women's workforce behavior in the past 65 years, elderly women have persistently high rates of poverty. Thus, it is important to understand the differences between men's and women's retirement income, and how women may fare given future reforms to Social Security and pensions.

The GAO made no recommendations.

Go to gao.gov/highlights/d08105high.pdf for the report summary and go to gao.gov/new.items/d08105.pdf for the full report. ❖

Each year in the United States millions are patients in hospitals, nursing homes and other care settings. Many suffer from illnesses or injuries that leave them incapacitated and unable to make care decisions. By doing advance **incapacity planning** an individual can stay in charge of decisions regarding their care even if they later become incapacitated.



Overview and Glossary

The two main tools used in incapacity planning are advance health care directives and financial powers of attorney.

California law provides three approaches for **advance health care directives**:

- A **power of attorney for health care (PAHC)**, in which an individual names one or more Agents to make decisions for the individual.
- An **individual health care instruction**, by which an individual gives written or oral direction concerning a health care decision.
- A **temporary surrogate**, by which an individual orally or in writing names another to make decisions for a limited period.

This Guide focuses on the PAHC. For individuals who have suitable people to name as Agents, a PAHC is the preferred approach since it gives the Agents flexibility in dealing with unpredictable circumstances.

The person who signs a PAHC is called the **Principal**; a person named to act on the Principal's behalf is called an **Agent**.

A PAHC may be either immediate or springing. Under an **immediate PAHC** an Agent's authority begins at the moment the PAHC is signed. Under a **springing PAHC** an Agent's authority begins at a later time triggered by the Principal's incapacity or another event. See **Access to Health Information and HIPAA**.

Powers of Attorney for Health Care

A PAHC is a legal document that allows you - the Principal - to stay in charge of your care by naming who will make decisions for you if you become incapacitated. Care decisions include:

- Selecting and removing doctors and other health care providers and institutions.
- Consenting to or refusing diagnostic tests, medical treatment, services, procedures or medications.
- Giving instructions on whether to provide, withhold or withdraw artificial nutrition and hydration (tube feeding, etc.) or cardiopulmonary resuscitation (CPR).
- Deciding on other matters affecting your mental or physical condition (dietary selections, etc.).

In addition to naming one or more Agents to make care decisions, the Principal may include individual health care instructions in the PAHC. The Principal

may also communicate individual health care instructions to the Agent orally or in a document separate from the PAHC (see **Communication Is Needed**).

Preparing a PAHC

There are three basic types of PAHC documents:

- Pre-printed forms. The California Medical Association form can be ordered at cmanet.org/bookstore or by telephoning (800) 882-1262. Many doctors and hospitals also provide forms. H.E.L.P. offers a free simplified form (see **Free Publications**).
- Attorney-drafted PAHCs.
- A statutory form, based on Section 4701 of the California Probate Code.

Pre-printed and statutory forms are not suitable for every person or in every situation.

Legal Requirements

For a PAHC to be valid, the Principal must have **signing capacity** when signing. Signing capacity means that the Principal is clearheaded enough to understand the nature and impact of the PAHC and to communicate about it in some fashion.

The PAHC must be signed, dated and properly witnessed (or notarized). Take special care to follow the form's witnessing instructions. The Principal's care provider, Agent and others are *not* acceptable witnesses. Also, special rules apply to witnessing for Principals residing in skilled nursing facilities.

Decision-Making Capacity

So long as the Principal has **decision-making capacity**, he remains in charge of his care decisions.

Decision-making capacity means that the Principal is clearheaded enough to understand a decision's nature and consequences, to make and communicate a decision and, when considering proposed health care, to understand the significant risks, benefits and alternatives.

Unless the PAHC provides otherwise, the Principal's primary physician is the one who determines the Principal's decision-making capacity. If the Principal has not selected a primary physician, or the selected physician is unavailable or unwilling to act, the physician who has taken on primary responsibility makes the determination.

Selecting Agents

The Principal should name an individual as primary Agent and, if possible, a second and a third individual to serve as successor Agents in the event that the prior Agents are unavailable.

Carefully select each Agent. Key factors to consider:

- Most important, an Agent should be someone with whom the Principal communicates well.
- An Agent should be someone who will make decisions in accordance with the Principal's wishes, even if the Agent disagrees with those wishes.
- An Agent should be someone who will stand up for the Principal and be able to deal with others (medical personnel, family members or friends) who disagree with the Principal's wishes.
- An Agent should be available when needed.

An Agent must be 18 years of age or older and have decision-making capacity. Most care providers and certain others are not eligible (see the PAHC form).

Co-Agents are Agents named in a PAHC to act together. We do *not* recommend naming Co-Agents. Co-Agents must act together and problems arise if the

Co-Agents are unable to agree on decisions or if one is not readily available.

Agent Duties and Authority

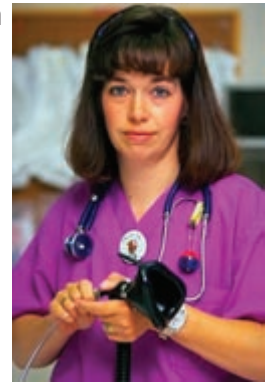
An Agent (if available and willing) has priority in making decisions for the Principal over any other person, unless the PAHC says otherwise or a temporary surrogate has been given authority.

The Agent is not authorized to make a decision to which the Principal objects, if the Principal has decision-making capacity. Further, the Agent may not consent to abortion, sterilization, mental health treatment facility placement, convulsive treatment or psychosurgery.

When making decisions, the Agent must follow the Principal's individual health care instructions and other wishes known to the Agent. If the Agent does not know the Principal's instructions or wishes, the Agent must act in the Principal's best interest, taking into account the Principal's personal values known to the Agent.

The Agent has authority to choose the care that the Principal will or will not receive, including the authority to decide whether life-sustaining treatment will be provided.

The Agent also has power to decide whether to make an organ or tissue donation, whether to authorize an autopsy and how to dispose of the Principal's remains. If the Principal does not want the Agent to have any or all of the above powers, the Principal may limit the Agent's powers in the PAHC.



The Schiavo Tragedy

Terri Schiavo died on March 31, 2005, after an eight-year battle about care decisions for her. The battle, which went far beyond her immediate family, involved the Florida governor and legislature, the U.S. Congress and President, and the U.S. Supreme Court and other courts. Almost everyone agrees that what happened to Terri Schiavo and her family was a tragedy.

Avoiding such a tragedy for yourself and your family involves taking two steps. First, choose who will make decisions for you and make them Agents in your PAHC. Second, figure out and communicate your wishes and views, so that your Agents and others will know what decisions you would want.

Personal Care Decisions

The Principal may also give the Agent authority to make personal care decisions on the Principal's behalf. These include decisions regarding living arrangements, hiring household employees, providing transportation and meals, handling mail and arranging recreation and entertainment. The authority to make personal care decisions may be included in the PAHC or in a financial or other power of attorney.

Access to Information and HIPAA

An Agent under an *effective* PAHC has the right to inspect and obtain a copy of the Principal's health information and to authorize disclosure of that information to others.

To respond to changes in the law on privacy of health information contained in the Health Insurance Portability and Accountability Act (HIPAA), we recommend that the PAHC be made immediately effective or have an effectiveness test that does not depend on first obtaining private health information.



Paying the Agent

If the Principal wants the Agent to be paid for performing his duties and/or reimbursed for reasonable expenses, state this in the PAHC. Agents are frequently not compensated.

When Does a PAHC End?

Unless the PAHC states a specific termination time, it continues until the Principal dies. The Agent's authority on organ and tissue donation, autopsy and disposing of remains continues beyond the Principal's death. *Warning:* PAHCs signed in California before 1992 terminated seven years from the date they were signed (unless the Principal was then incapacitated).

Revoking an Agent's Authority

A Principal who has signing capacity may revoke an Agent's designation by signing a new PAHC or by another writing. If the Principal's marriage to an Agent is dissolved or annulled, the designation of the former spouse as Agent is automatically revoked.

Communication Is Needed

If the Principal wants to ensure that his wishes are followed, the Principal and Agents should discuss the Principal's feelings on medical treatment, values and views, and what makes life worth living. Otherwise,

Free Publications

You can order copies of H.E.L.P.'s pre-printed PAHC form, the related wallet card and Your Way through better-endings.org or by calling (310) 533-1996. You can also print a copy of the PAHC form and wallet card directly from better-endings.org.

the Agents may not have the information they need to be able to make the decisions the Principal wants.

The Principal should also communicate this information to physicians and close family members and friends so that these individuals will know whether the Agent is following the Principal's instructions.

H.E.L.P. has created a free guide called *Your Way* (see **Free Publications**). Using *Your Way* will help you think about what is important to you and to communicate your individual health care instructions, wishes and values to your Agents and others.

Your Way also helps Agents be more effective in dealing with hospital and other medical staff (see **How to Be an Effective Agent**).

The Need to Coordinate

Care decisions made by an Agent under a PAHC can have financial consequences. The Principal's finances might be managed under a *financial* power of attorney. If the Agents under the two separate powers of attorney are not the same person, problems can arise. The two documents need to be coordinated and language should be included in both stating which Agent's decisions will take priority.

Naming a Temporary Surrogate

California law permits an adult patient to name another adult to act as a surrogate or decision-maker on the patient's behalf. The surrogate has priority over the Agent for the period of time that the surrogacy is in effect. A patient names a surrogate by notifying the patient's primary physician. The surrogacy continues (1) during the course of treatment or illness, (2) during the stay in the health care institution when the surrogate is named or (3) for 60 days, *whichever is shortest*. The patient may set a shorter period.

The surrogate must make decisions consistent with any written or oral instructions of the patient and with any other known wishes of the patient. If the wishes are unknown, the surrogate must act in the patient's best interest, taking into consideration the patient's personal values known to the surrogate.

What Happens Without an Advance Health Care Directive?

If you become incapacitated and have no advance directive, the medical providers might accept decisions of your closest family members. If there is disagreement among family members or between them and the providers, however, it may become necessary to go to court to name a person to make decisions for you.

How to Be an Effective Agent

Being an Agent isn't a job to be taken lightly. When the time comes for you to step in, **your jobs** will include asking questions and getting solid answers, developing and adjusting care plans, selecting care settings, and following through. You will need to adjust, as things change. You must be an advocate.

To be an effective Agent, you need to communicate and learn the Principal's wishes, values and views ahead of time – and check back to stay up to date.

Your duty is to follow the Principal's wishes and instructions as they are known to you. If you don't know them, you must act in the Principal's best interest, taking into account the Principal's personal values known to you.

In making decisions, be sure to define the **goals of care**, depending on the circumstances. Based on the goals chosen, different care choices will be appropriate.

Goals of care range from returning to good health – to creating a good death. They include curing the illness, stopping or slowing the progress of the illness, maintaining or improving function, prolonging life, avoiding premature death, relieving pain and suffering, staying in control, and supporting loved ones.

Ask for help from medical, social work and bioethics professionals.

Sample Questions to Ask the Care Professionals

- ☐ If I have questions or problems, with whom should I speak?
- ☐ When will you be here next so that I can speak with you face-to-face?
- ☐ Have you spoken to Dr. _____ and Dr. _____? What did they say? Do you agree?
- ☐ Do you expect her to recover?
- ☐ What will his recovery or rehabilitation be like?
- ☐ If we do [or don't do] what you propose, what will her life be like?
- ☐ What other things could we do to help him?
- ☐ Would you be surprised if she died within [time period]?
- ☐ Would you be surprised if he was not able to leave the hospital?
- ☐ How do we get the best pain and symptom management for her?
- ☐ Would hospice make sense for him?
- ☐ Do you think her life would be better if we _____?
- ☐ Can we do what you propose for a [time period], on a trial basis?
- ☐ How long should we try what you propose before we re-evaluate?
- ☐ What will happen if we don't provide tube feeding?
- ☐ Now that we have agreed on _____, how will you document this and communicate it to the rest of the medical team?

Summing Up

The legal and communication tools that allow you to control decisions about your care are readily available. You need to take two steps:

- 1) Sign a PAHC naming carefully selected Agents.
- 2) Sort out and communicate with your Agents and others your feelings on medical treatment, values and views and what makes life worth living.

Once you've done the paperwork:

- Give copies of the PAHC to each of your Agents, other close family members and friends and medical providers.

- Complete a wallet card that notifies emergency medical personnel that you have signed a PAHC and includes the names and telephone numbers of your Agents. Keep it with your driver's license or other I.D.
- At least annually, review your PAHC and communication documents to ensure that your designation of Agents is up to date and that your wishes are still accurately expressed.

If you are named as an Agent, be prepared. Communicate and stay up to date.

- Probate (and Avoiding It) in California
- Estate Administration
- Wills and Trusts
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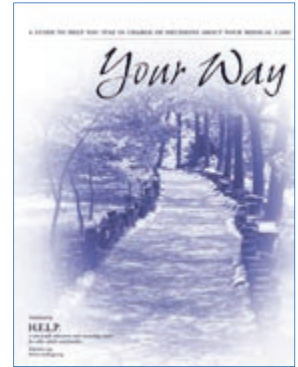
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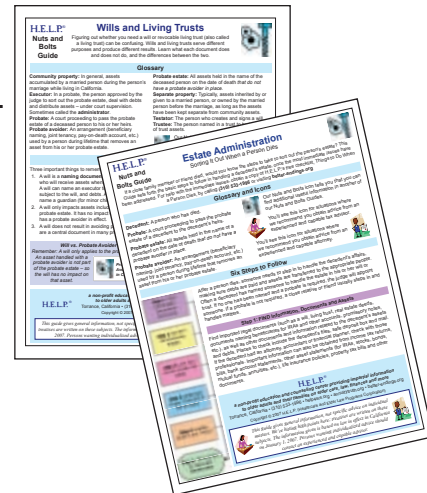


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Even in the face of chronic health problems, older adults and families across America do wonderful things for each other. Moms and dads are thoughtful and caring, and many plan ahead. Adult children support and protect their parents.

Bob and Jan head one such family. Bob suffers from Parkinson's and Jan is his primary caregiver. They've done some good planning work, and their son Jim and daughter-in-law Chris (although living many miles away) stay in touch and help as needed. Recently, however, a sudden change in Jan's health created a crisis. We're proud that H.E.L.P. was there to assist them.

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