What is the Durable Power of Attorney for Healthcare?

Posted on May 24, 2018

Introduction

In this research paper, there is an in-depth analysis of the Durable Power of Attorney for Health Care (DPAHC), which takes a real-life scenario of a74 74-year-old lady admitted with multi-infarct dementia. In her case, the woman's case worsens as days pass, and opts to have her daughter as her DPAHC. There is confusion at these Durable Power of Attorney for Health Care (DPAHC) whereby the first had her daughter present while the second had her absent. In this process, there is confusion on the decisions thus leaving the paper to relay the durable power of attorney Vs. DNR. Here, the research paper will present the ethical and legal stances in line with the Durable Power of Attorney process.

What is the durable power of the Attorney for healthcare?

In defining the term, DPAHC is legal written documentation that allows one to express their wishes regarding their health, including mental health care. This step permits the patient's representative to appoint a person to enable them to make both physical and mental health decisions in case the individual cannot make a decision (Andrea G. Dutton, 2012). In this research scenario, the mother's daughter has been given the power to make decisions. From the legal perspective, there exist conditions under which one is likely to lose their right to make decisions regarding their health status. This occurs in instances where someone has mental issues that might result in calling for wrong or illogical decisions (Barry Cassidy, 2007). The restriction on making health decisions might be lost if they do not align with the ethical standards of the dementia woman in the case of having a distinct decision for her daughter and the physicians.

DPAHC is set with the intent of specifying the following:

- The amount and types of medication that one wishes and those that they do not wish to receive;
- The types together with the amount of other mental or physical health treatment you do and those you do not wish to receive;
- The individual you appoint will act as your agent in making mental and physical health care decisions consistent with your set wishes.

Who can set up a DPAHC?

In settling an individual for a DPAHC position, there is a call for anyone who is at least 18 years of age. Notably, the individual chosen should also be of sound mind and not coerced into the situation but only act of their own free will. In case of someone having a mental disability, they can also create DPAHC within the confines that they do not possess lacking legal capacitation (Berger, 2010).

Who can be appointed to make the decisions on behalf of the patient?

Individuals can be designated as agents, but only with specific exemptions. The treating healthcare provider cannot act as an agent. Additionally, the operator regarding a residential care facility for those old people or the board and care operators cannot be designated to agent position (Donna J. Bowles, 2011). In case of individual wishes, they can have the conservator appointed as their agent. In choosing this one, certain conditions must be fulfilled.

Regarding the appointment of an agent, it is crucial to have an individual(s) who respect your wishes concerning treatments and health care services. The agent can be a close friend, a relative, or any other individual you may trust to make decisions on your behalf.

When does the DPAHC come into effect?

DPAHC only becomes useful in cases where an individual who is a patient is unable to make decisions on their own due to health reasons or even legally unable to decide on an individual's mental health status. As long as one wields the legal power to make decisions on a particular treatment, the agent cannot impose any treatment decisions for the patient (Jane Runzheimer, 2010). After choosing the agent, they cannot make any decisions about your health care over your objections even when you are incapable of giving out informed consent.

What are the forms of mental health care that a DPAHC can cover?

DPAHC addresses any care treatment services or procedures for maintaining, treating, and diagnosing an individual's mental or physical conditions. Under the DPAHC, there is coverage of various forms of psychiatric treatments inclusive of therapeutic and psychiatric drugs. The agent can have consented to the treatment, have it revoked, or even withdraw from its execution. It is the mandate of the DPAHC to specify the different types of medications in case of any dosages if there exists any (maximum) to which one would consent. Unless the patient states otherwise, the agent can also

decide on the patient's health treatment recordings. The agent can opt to discuss the treatment with the physician, read the patient's medical treatments, receive them, and even consent to the disclosure of the records.

Conversely, there are many health (mental) treatments under which the agent wields zero power regarding making decisions. The law prohibits the agents from consenting to convulsive treatments such as shock treatments, psychosurgery, commitments, or admission to any mental facility. Regarding other types of treatment under DPAHC coverage; it can also address health care related to an individual's mental condition (Kathleen S. Osborn, 2009). DPAHC can cover your wishes concerning treatment in case of an illness or injury incapacitating your decision-making process. DPAHC includes statements on individual desires in line with an individual's concerns about the lifelong treatment process. The agents ought to intervene and act in the patient's interests in cases where the DPAHC does not sufficiently state their wishes regarding specific treatments.

What about instances where the conservator and doctor disagree with my agent on the patient's medical or psychiatric treatments?

The physician or the conservator could have the DPAHC challenged in the court and case the court decides in their favor, thus leading to ordering the patient's treatment and ending the DPAHC authority (Madonna Harrington Meyer, 2016). In this case, the daughter of the 74-year-old Dementia woman should come to a consensus with the physicians on an issue concerning the insertion of the gastronomy tube or the woman's decision to leave her to die rather than prolonging her suffering. If a consensus on the care services to the lady is not reached, then a court verdict would best intrude here to sort out the issue (Linda Farber Post, 2007). In case the doctor or the conservator appears indifferent to the agent, but no DPAHC challenge is set in the courts, then the agent wields power to make decisions for the patient.

Only the court order can revoke the DPAHC, with the individual holding power to the same stand. The doctors are handed power under different state laws on decisions that an individual can no longer make their own decisions about their healthcare treatments.

What if an individual wishes to change DPAHC?

In case of this change, then they should write a new DPAHC. It could appoint an agent (new), specify distinct time limitations, or even change the patient's wishes concerning the treatment and health care services. One should understand the proper prerequisites for the DPAHC signatures in this situation. One does not need a lawyer to assist in writing a DPAHC. The state's rules must follow this.

The requirements are inclusive of the following:

- Witnesses should be available with many states requiring a witness to look at the signing of the form. The state's rules should be abided by while in this process;
- A notary public is supposed to be recognized in the DPAHC. This implies that an attorney should check while signing this form. The notary public later stamps the form, and he hands out his seal to complete the DPAHC(Nathan E. Goldstein, 2013).

There should be a review of DPAHC if you wish to cancel or change it. After making the changes, newer copies should be produced and handed to healthcare providers and healthcare agents. The following should be done in case the following events occur:

- A decade should not pass without reviewing the DPAHC;
- In case of the death of anyone close to you, reviewing of DPAHC should follow;
- In case of changes in relationships such as divorce or marriage, then reviewing should follow;
- In case of being diagnosed with severe health issues, then it is necessary to review the DPAHC.

Conclusion

Conclusively, it is crucial to have a settlement on the DPAHC issue with the above case whereby the 74-year-old Dementia lady and the daughter together with the physicians need a consensus on the next action. Legal and ethical issues are vital to Durable Power of Attorney for Health Care (DPAHC) thus in a scenario like this one, there should be a consensus reached so that the next treatment service for the lady can be set on course immediately. DPAHC should be considered for those in old age or individuals with mental incapacities to make treatment decisions.

References

Andrea G. Dutton, T. L.-W. (2012). *Torres' Patient Care in Imaging Technology.* Los Angeles: Lippincott Williams & Wilkins.

Barry Cassidy, J. D. (2007). *Ethics and Professionalism: A Guide for Physician Assistant.* F.A. Davis.

Berger, A. S. (2010). *When Life Ends: Legal Overviews, Medicolegal Forms, and Hospital Policies.* Chicago: Greenwood Publishing Group.

Donna J. Bowles, M. E. (2011). *Gerontology Nursing Case Studies: 100 Narratives for Learning.* Springer Publishing Company.

Jane Runzheimer, L. J. (2010). *Medical Ethics For Dummies.* New York: John Wiley & Sons.

Kathleen S. Osborn. (2009). Medical-surgical Nursing: Preparation for Practice. *Nursing*, 2447.

Linda Farber Post, J. B. (2007). Handbook for Health Care Ethics Committees. *Medical*, 327.

Madonna Harrington Meyer, E. A. (2016). *Gerontology: Changes, Challenges, and Solutions [2 volumes]: Changes, Challenges, and Solutions.* London: ABC-CLIO.

Nathan E. Goldstein, R. S. (2013). *Evidence-based Practice of Palliative Medicine.* Elsevier Health Sciences.

Stahl, M. J. (2008). *Encyclopedia of Health Care Management.* SAGE Publications.