

Offices in  
Suffolk and  
Virginia Beach, Virginia  
Tel: 757-399-7506  
Fax: 757-397-1267  
Web: [www.oasthook.com](http://www.oasthook.com)



MEMBER



*Special needs require special lawyers.*

### INSIDE THIS ISSUE

- National Healthcare Decisions Day
- Ask Allie
- Distribution of This Newsletter

Editor  
Sandra L. Smith,  
Certified Elder Law Attorney

## NATIONAL HEALTHCARE DECISIONS DAY BY SANDRA SMITH, CELA

National Healthcare Decisions Day is on April 16th. In Virginia, the Health Care Decisions Act provides the specifics of the Commonwealth's advance directives law. It is estimated, however, that only about 15% of all Virginians have executed an advance directive, and less than 50% of severely or terminally ill patients have an advance directive. One of the primary goals of National Healthcare Decisions Day is to encourage hospitals, nursing homes, assisted living facilities, continuing care retirement communities, and hospices to participate in a nationwide effort to provide clear and consistent information to the public about advance directives.

All adults in Virginia have the right to prepare an advance directive in order to put their wishes regarding medical care in writing. There are two components to the advance directive. The first component is the living will. This permits an individual to state what kind of life-prolonging treatment the individual wants or does not want if the individual is in the dying process and the individual is unable to express his or her wishes. Life-prolonging treatment includes using machines, medicines, and other artificial means to help individuals breathe, eat, get fluids into their bodies, have a heartbeat, and otherwise stay alive when the body cannot do these things on its own. Medications used to keep an individual comfortable are not considered life-prolonging treatment. Life-prolonging treatment will not help an individual recover. Another way to look at the living will is that if an individual is in the dying process, then the individual does not want artificial means to prolong this process, but the individual might want pain-relieving medications to be administered, even if it accelerates the dying process.

The other component of the advance directive is often called a power of attorney for healthcare. This allows an individual to appoint an agent or agents to make medical decisions for the individual if the individual becomes

incapable of making medical decisions. The document can specifically tell the agent what kind of care the individual does or does not want. For example, the document can give the agent the authority to work with a physician in order for the physician to enter a do not resuscitate order (DNR) on the individual's behalf, but the advance directive itself is not as a DNR order. The agent can only make medical decisions if the individual's physician and another physician or licensed clinical psychologist examine the individual and determine in writing that the individual cannot make medical decisions for himself or herself. As soon as the individual is capable of making medical decisions again, the decision-making authority of the agent ceases.

It is important for people to put their wishes in writing, because oral advance directives can be created only if an individual has a terminal condition and can tell his or her wishes directly to his or her physician. Unfortunately, many terminally ill individuals may no longer be competent to discuss their wishes with their physicians. Putting the individual's wishes in writing reduces confusion about the individual's desires, and it also establishes clear lines of authority for decision-making. This is important for blended families in which there may be second spouses and adult children from prior marriages, and for younger couples where conflicts can arise between parents and spouses. Everyone 18 years of age or over should sign an advance directive; it is not just for the elderly.

Anyone 18 years of age or over can be named as an agent in an advance directive; the agent does not have to be a Virginia resident. An alternate agent should be named in case the primary agent is unavailable to serve. Advance directives must be witnessed by two individuals 18 years of age or over; the agents should not witness the document. Advance directives do not need to be notarized; however, the advance directives that Oast & Hook prepares for its clients are notarized in case these advance directives need to be used in other states. Although a Virginia advance directive is designed to be valid in any state, an individual who spends a considerable amount of time in another state should prepare an advance directive for the other state. Advance directives can also be registered with the U.S. Living Will Registry or Docubank.

Copies of an advance directive are valid. For this reason, Oast & Hook recommends that its clients keep their original advance directives in a secure place, and let their agents know where these advance medical directive are located. They should give copies of their advance directives to their primary care physicians and all specialists. They should also give copies to each agent, and discuss their wishes with their agents. They should keep a copy of their advance directives in the glove compartments of their vehicles and place one on the side of their refrigerators. It is also a good idea to take a copy of the advance directive when traveling. Oast & Hook provides its clients with wallet cards stating that the client has executed an advance directive, and listing the names and telephone numbers of the client's agents. The Oast & Hook advance directive also includes a privacy act waiver, also called a Health Insurance Portability and Accountability Act of 1996 (HIPAA) waiver, which permits the agent to talk immediately with the physicians or review medical records, even if the physicians have not declared the client incapable of making medical decisions. This is helpful for seniors when their children do not know if they need to act as the agent for their parents and the only way they can decide is to talk with the parent's physicians.

Oast & Hook is pleased to participate in this year's National Healthcare Decisions Day. Oast & Hook attorney Sandra Smith will participate in a program on Monday, April 16th, at 1:30 p.m. at Westminster Canterbury on the Chesapeake Bay. Ms. Smith will be discussing surrogate decision making and other estate planning issues.

The attorneys at Oast & Hook assist their clients in the preparation of advance directives as part of their estate, financial, and long-term care planning process. Some useful websites are the U.S. Living Will Registry at [www.uslivingwillregistry.com](http://www.uslivingwillregistry.com) and National Healthcare Decisions Day at [www.nationalhealthcaredecisionsday.org](http://www.nationalhealthcaredecisionsday.org).

### Ask Allie

O&H: Allie, we've heard that stress is not only detrimental to human health, it can also affect cats' health. Please tell us about it.

Allie: Sure! The Ohio State University recently conducted a study of 32 cats over a period of 77 days. Twelve cats were healthy and twenty had feline interstitial cystitis. The researchers first created a consistent environment for the cats, then introduced unusual events to disrupt the routine environment. Both groups of cats responded with the same number of sickness events to the unusual events. Common symptoms of stress in cats include changes in litterbox habits and appetite, excessive grooming, destructive behaviors, aggression, excessive vocalization, and depression. Families should first visit their veterinarian to rule out any serious health issues. Common stressors include the addition or loss of a family member or pet, moving to a new home, changes to the daily routine, boredom, and lack of exercise. Families can try to make life stressful for their cats. Introduce changes gradually if possible. If you have several pets, then make sure each has a safe retreat, and have one litterbox for each cat. Cats like vertical space, toys and playtime. If you need to travel, then consider having a pet sitter come in rather than boarding the cat in an unfamiliar place. An enriched environment can reduce or prevent some common signs of feline sickness. There are great tips! That reminds me . . . time to find my mom and play . . . See you next week!

### Distribution of This Newsletter

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled, and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Oast & Hook News*, then please e-mail us at [mail@oasthook.com](mailto:mail@oasthook.com), telephone us at 757-399-7506, or fax us at 757-397-1267.

### Copyright © 2012 by Oast & Hook, P.C.

*This newsletter is not intended as a substitute for legal counsel. While every precaution has been taken to make this newsletter accurate, we assume no responsibility for errors, omissions, or damages resulting from the use of the information in this newsletter.*

*If you would like to be removed from our Oast & Hook News distribution list, please e-mail us at [mail@oasthook.com](mailto:mail@oasthook.com), telephone us at 757-399-7506, or fax us at 757-397-1267.*