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Compliance With Advance Directives: Wrongful Living and Tort Law Incentives

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Compliance With Advance Directives Wrongful Living And

N Colangelo



Compliance With Advance Directives Wrongful Living And:

Compliance with Advance Directives Holly Fernandez Lynch, Michele Mathes, Nadia N. Sawicki, 2013 Modern ethical and legal norms generally require that deference be accorded to patients decisions regarding treatment including decisions to refuse life sustaining care even when patients no longer have the capacity to communicate those decisions to their physicians Advance directives were developed as a means by which a patient s autonomy regarding medical care might survive such incapacity Unfortunately preserving patient autonomy at the end of life has been no simple task First it has been difficult to persuade patients to prepare for incapacity by making their wishes known Second even when they have done so there is a distinct possibility that those wishes will be disregarded or ignored and that a patient whose expressed choice was to refuse life sustaining treatment will nonetheless be kept alive against his or her will This problem is only exacerbated by the fact that patients finding themselves in this situation have routinely been denied adequate legal remedies on the grounds that continued life is not a compensable harm This article rejects that reasoning and in so doing takes an important step toward more fully enforcing one s legal and moral right to refuse care at the end of life The authors argue for recognition of a wrongful living variant of battery in situations where physicians have recklessly or intentionally disregarded or misinterpreted advance directives and offer guidance on some of the difficult questions relating to damages that have perplexed the courts and commentators in this area While allowing recovery for wrongful living will not resolve many of the outstanding issues leading to low utilization of advance directives by patients or the need for interpretation of a patient s stated wishes in many circumstances it will offer significant protection to those who have made their wishes clear SSRN posted version is a pre publication draft *Advance Directives: Rethinking Regulation, Autonomy & Healthcare Decision-Making* Hui Yun Chan, 2018-10-03 This book offers a new perspective on advance directives through a combined legal ethical and philosophical inquiry In addition to making a significant and novel theoretical contribution to the field the book has an interdisciplinary and international appeal The book will help academics healthcare professionals legal practitioners and the educated reader to understand the challenges of creating and implementing advance directives anticipate clinical realities and preparing advance directives that reflect a higher degree of assurance in terms of implementation **The Right to Die** Alan Meisel, Kathy L. Cerminara, Thaddeus M. Pope, 2004-01-01 The Right to Die Third Edition analyzes the statutory and case law *The Law and Ethics of Dementia* Charles Foster, Jonathan Herring, Israel Doron, 2014-12-01 Dementia is a topic of enormous human medical economic legal and ethical importance Its importance grows as more of us live longer The legal and ethical problems it raises are complex intertwined and under discussed This book brings together contributions from clinicians lawyers and ethicists all of them world leaders in the field of dementia and is a comprehensive scholarly yet accessible library of all the main and many of the fringe perspectives It begins with the medical facts what is dementia Who gets it What are the current and future therapeutic and palliative options What are the

main challenges for medical and nursing care The story is then taken up by the ethicists who grapple with questions such as is it legitimate to lie to dementia patients if that is a kind thing to do Who is the person whose memory preferences and personality have all been transformed by their disease Should any constraints be placed on the sexual activity of patients Are GPS tracking devices an unpardonable interference with the patient s freedom These issues and many more are then examined through legal lenses The book closes with accounts from dementia sufferers and their carers It is the first and only book of its kind and the authoritative text This title is included in Bloomsbury Professional s Family Law online service

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values self determination A patient s right to self determination becomes a poignant and volatile issue in the context of modern life sustaining technologies When the benefit of medical treatment is overshadowed by the resulting burdens treatment may ethically be withdrawn Patients have the right to make this decision assuming they still have the capacity to make it Through advance directives a competent patient can extend his right to consent to or refuse medical treatment indefinitely into the future Whether in the form of informal oral instructions or formal written documents advance directives insure patients that their treatment wishes will be carried out They also alleviate the uncertainty guilt and or fear of legal consequences facing the family and caregivers This volume is a collection of fourteen essays investigating the advantages and disadvantages of different kinds of directives the role of professionals in making and honoring them policy issues that need to be addressed and future directions which directives may take Although such documents may be used to request treatment this volume limits its focus to their more common function the refusal of treatment Timely and comprehensive *Advance Directives in Medicine* provides a stimulating overview of this relevant topic The papers in this volume were originally presented at a multidisciplinary conference on advance directives Revised and edited for this text they address a variety of questions and issues for instance What are the individual and societal benefits of advance directives Does an advance directive tamper with the sanctity of life Will normalizing directives have an adverse effect on the practice of medicine Should a patient specify treatments to be withheld within a directive such as the use of CPR nutrition or hydration What legal sanctions should apply against those who ignore directives Should directives be used to reduce health care expenditures by insurance companies Medicare and Medicaid What is a physician s role in helping his patient formulate an appropriate directive and when is a patient ready to confront his own mortality **Elderlaw** Joan M. Krauskopf,1993

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