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Barbara Zabawa

University of Missouri - Kansas City, School of Law

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Recommended Citation

Barbara Zabawa, *Advance Care Planning is Critical to Overall Wellbeing*, 37 *American Journal of Health Promotion* 422 (2023).

Available at: https://irlaw.umkc.edu/faculty_works/931

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Advance Care Planning is Critical to Overall Wellbeing

By Barbara J. Zabawa, JD, MPH

Center for Health and Wellness Law, LLC and the University of Wisconsin - Milwaukee, WI, USA

Wellness is growing market in the United States. McKinsey & Company estimates the spend on wellness products and services to exceed \$450 billion in the United States and to grow at more than five percent annually.¹ Despite this impressive growth, wellness products and services are falling short of meeting many consumers' wellness needs.² Those who feel least satisfied with what wellness has to offer yearn for a more holistic approach to wellness, with a need for more products and services that address sleep and mindfulness concerns.³ Arguably at the heart of these more holistic approaches, particularly those that can improve sleep and mental wellbeing, is factoring into wellbeing an individual's relationships, culture, physical environment, and socioeconomic conditions. After all, if a person is living in an abusive relationship, a dangerous neighborhood, facing discrimination, or breathing toxic air, then no amount of individual behavior change will achieve full wellbeing for that person. In healthcare parlance, these factors are labeled "Social Determinants of Health" or SDOH.

This article aims to promote incorporating Advance Care Planning (ACP) into health promotion work. ACP can serve as a tool and framework to engage in broader discussions about an individual's social and structural drivers of health. By looking beyond individual behavior and starting the ACP discussion, health promotion professionals can tackle SDOH thereby making health promotion efforts more effective.

What is Advanced Care Planning (ACP)?

According to researchers at the RAND Corporation, "ACP, in its most advanced form, is a comprehensive, ongoing, and holistic communication pattern between a physician and his or her patient (or the patient's designated proxy) about values, treatment, preferences, and goals of care."⁴ ACP helps identify what health services are best for the individual and then outlines specific steps to make those services more likely.⁵

¹ McKinsey & Company, *Still feeling good: The US wellness market continues to boom* (September 2022), available at <https://www.mckinsey.com/~media/mckinsey/industries/consumer%20packaged%20goods/our%20insights/still%20feeling%20good%20the%20us%20wellness%20market%20continues%20to%20boom/still-feeling-good-the-us-wellness-market-continues-to-boom.pdf?shouldindex=false> (last visited November 5, 2022).

² Id.

³ Id.

⁴ Anne Wilkinson, Neil Wenger and Lisa Shugarman, Literature Review on Advance Directives, RAND Corporation, at B-7 (June 2007), available at https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//135201/ADCongRpt-B.pdf (last visited November 6, 2022).

⁵ Id. at B-8.

ACP can include helping individuals locate and fill out ACP documents. These legal documents memorialize the wishes of the individual when it comes to their health needs and care. A summary of the different types of legal documents that are available are as follows:

1. **Living Will**: an advance directive that specifies an individual’s end-of-life wishes. This document often details circumstances under which treatment should be discontinued, such as coma, brain death, or a terminal condition. It may also specify which “heroic measures,” such as emergency surgery and cardiopulmonary resuscitation (CPR), should not be used. Living wills can also note preferences regarding organ donation, autopsy and alternative treatments.⁶ All 50 states recognize living wills.⁷
2. **Durable Power of Attorney**: A Durable Power of Attorney or “DPOA” is not necessarily a medical document, but it can be used as such (and when it is used exclusively for medical decision-making, it may be called a “DPOA for healthcare” – see below). DPOA’s are advance directives “that confer upon a designee the authority to make a variety of legal decisions on behalf of the grantor.”⁸ These decisions may include financial decisions or decisions about property.⁹ The DPOA is “durable” because it does not expire when the individual becomes incapacitated, unless the individual specifies within the document that they want it to expire upon their incapacitation.¹⁰ The “designee” for the DPOA may be anyone the individual chooses (and trusts). That could be a spouse, adult child, or even their attorney.¹¹
3. **Health Care Power of Attorney**: A Health Care Power of Attorney (HPOA) is a type of DPOA, but specific to health care decision-making. Just as with a DPOA, the individual selects a designee or “agent” to stand in their shoes and make health care decisions for them when the individual is no longer able to do so.¹² Similar to a living will, the HPOA makes the individual’s wishes about end-of-life treatment known. However, unlike the living will, the HPOA gives the decision-making power to another person. In this way, the HPOA is more flexible, because it entrusts the final decision to a person who can respond in fluid situations rather than on having treating providers rely on wishes expressed in a static document.
4. **Do-Not-Resuscitate (DNR) Orders**: Do Not Resuscitate (DNR) orders are “medical orders written by a physician when requested by the patient.”¹³ Compared to an HPOA or DPOA, DNR orders are very limited in that they instruct healthcare providers not to do CPR if the patient’s heart stops beating or the patient stops breathing.¹⁴ The orders are

⁶ Karen Judson and Carlene Harrison, *Law & Ethics for Health Professionals*, 9th Ed., at 291 (McGraw-Hill 2021).

⁷ *Id.*

⁸ *Id.*

⁹ See e.g., Wisconsin Department of Health Services DPOA Instructions, available at <https://www.dhs.wisconsin.gov/forms/advdirectives/f00036.pdf> (last visited November 6, 2022).

¹⁰ *Id.*

¹¹ *Id.*

¹² Judson and Harrison, at 292.

¹³ *Id.*

¹⁴ *Id.*

placed in a patient's medical chart and some states recognize a state-authorized DNR bracelet.¹⁵

ACP document resources for all 50 states can be found here: <https://www.justia.com/estate-planning/estate-planning-probate-forms-50-state-resources/forms-for-advance-directives-living-wills/>.

How Can ACP Improve Wellbeing?

First, creating an advance care plan can create peace of mind,¹⁶ which improves overall wellbeing. However, it is not just the end result that improves wellbeing. The ACP process, when done as intended, can arguably have an even greater impact on wellbeing.

As noted earlier, ACP is a comprehensive, *ongoing*, holistic communication pattern between a provider and patient. The ACP process offers a chance to discuss with the individual their SDOH, such as family relationships, housing issues, education levels, income and employment concerns, cultural values, as well as legal status (such as immigration, criminal or credit history status). An effective ACP process will account for all of these facets of the individual's life and ensure they are addressed as part of the ACP documentation. ACP discussions that do not consider these social and structural drivers of health will fail to develop adequate ACP goals. For example, failing to explore family relationships may cause the individual to choose an agent that does not have their best interests in mind. Or, neglecting an individual's cultural background and beliefs may lead to an ACP that does not respect different approaches to illness. Thus, to be truly effective in ACP, the facilitator of the ACP process must erase all assumptions and listen to the individual so that ACP is tailored to that individual's specific wants and needs.

This comprehensive, ongoing, holistic communication is exactly what needs to happen for an individual to achieve maximum wellbeing. Health promotion professionals who focus exclusively on individual behaviors miss significant contributors to an individual's overall wellbeing. As a result, health promotion professionals should embrace the ACP process as a tool to help improve the wellbeing of the individuals and populations with whom they work. And there is a dire need for health promotion professional involvement in the ACP process, as 70% of Americans do not have an advance care plan.¹⁷

How Can Health Promotion Professionals Incorporate ACP into their Work?

When it comes to implementing an effective ACP, health promotion professionals should not go it alone. "ACP requires more interdisciplinary attention, conversations, health research and

¹⁵ Id.

¹⁶ Fact Sheet, Give Peace of Mind: Advance Care Planning, Centers for Disease Control, available at <https://www.cdc.gov/aging/advancecareplanning/index.htm> (last visited November 6, 2022).

¹⁷ Id.

practice and joining up professions.”¹⁸ Interdisciplinary attention means that health promotion professionals should team up with other professionals, such as health care providers and lawyers. A good model of an interdisciplinary approach to addressing SDOH that could be applied to the ACP process in promoting overall wellbeing is the Medical-Legal Partnership model.

Lessons from Medical-Legal Partnerships

Medical-Legal Partnerships (MLPs) started in Boston in 1993 to allow doctors to utilize legal resources in health care settings to ensure vulnerable patients’ legal needs are identified and met.¹⁹ According to the National Center for Medical Legal Partnership, 450 health organizations have developed MLPs in 49 states in the U.S.²⁰ MLPs have three core components: 1) direct legal services for patients who are referred to lawyers; 2) transformation of health and legal institutions to address legal needs early; and 3) policy change to remove legal barriers to health.²¹ Research on MLPs demonstrates that including attorneys on health care teams increases access to resources for patients, improves awareness by the health care organization and society at large of public health issues and social services, and reduces stress for the provider, the patient and the patient’s family.²²

MLPs embrace a “preventive law” approach to addressing health inequities which plague vulnerable populations.²³ Applying preventive law to SDOH such as securing food assistance, health insurance, disability benefits, housing subsidies, domestic abuse restraining orders, or preventing evictions, employment discrimination or deportation eliminates enormous stressors in individuals’ lives, clearing the way to focus on improving their health and wellbeing.

Health promotion professionals could adopt the MLP model when incorporating the ACP process to improve individual wellbeing. Much like MLPs in a health care setting, teaming up with lawyers in a wellness setting (such as a corporate wellness setting) could help health promotion professionals address SDOH that may be preventing health promotion clients from achieving maximum wellness. These partnerships could be called “Wellness-Legal Partnerships”

¹⁸ Nola M. Ries, et al., *Doctors, Lawyers and Advance Care Planning: Time for Innovation to Work Together to Meet Client Needs*, Healthcare Policy, Vol. 12, No. 2, at 17 (2016).

¹⁹ Anne M. Ryan, et al., *Pilot Study of Impact of Medical-Legal Partnership Services on Patients’ Perceived Stress and Wellbeing*, J. of Health Care for the Poor and Underserved, 23 (2012): 1536-1546.

²⁰ Website, National Center for Medical Legal Partnership, <https://medical-legalpartnership.org/> (last visited November 6, 2022).

²¹ Anne M. Ryan, et al., at 1537.

²² Id.; see also Dana Weintraub, et al., *Pilot Study of Medical-Legal Partnership to Address Social and Legal Needs of Patients*, J. of Health Care for the Poor and Underserved, 21 (2010) 157-168 (noting that a study of 20 cancer patients who had received legal assistance through an MLP showed positive results, such as 75% of patients said legal assistance reduced stress, 50% reported receipt of legal assistance had a positive effect on their family or loved ones, 45% said legal assistance positively affected their financial situation, and 30% reported that legal assistance helped them maintain their treatment regimen).

²³ Dana Weintraub, et al., at 158; see also Jennifer N. Rosen Valverde, et al., *Medical-Legal Partnership Impact on Parents’ Perceived Stress: A Pilot Study*, Behavioral Medicine, Vol 45, No. 1 (2019): 70-77.

or “WLPs.” Moreover, WLPs could help health promotion professionals more effectively conduct the ACP process. As civil legal needs arise during the ACP conversation and assessment, health promotion professionals would have a built-in referral to a legal resource to help individuals address those various social and structural drivers of health. Lawyers could also provide valuable insight into questions that should be asked relating to SDOH that often create barriers to achieving full wellbeing. Legal resources could be lawyers and law students who work for law school clinic programs, wellness law firms, wellness associations or brokerage firms.

Call to Action

To improve individual wellbeing, health promotion professionals must learn more about ACP and how it impacts stress levels and overall wellbeing. One good resource is an Advance Care Planning Course from the Centers for Disease Control, available at https://www.cdc.gov/aging/advancecareplanning/care-planning-course.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Faging%2Fadvancecareplanning%2Fcare-planning-course.htm. Research studies cited within this article are also good resources.

One resource to learn more about the value of MLPs, and how they might translate to WLPs, is the Center for Medical Legal Partnership, whose website is www.medical-legalpartnership.org. The Center for Medical Legal Partnership has examples of the benefits MLPs on patients and providers, sample workflows, and screening tools, such as for disability discrimination.²⁴

Incorporating ACP into health promotion services has the potential to respond to SDOH that prevent individuals from achieving optimal wellbeing. Engaging in comprehensive, ongoing and holistic communications with health promotion clients is the first step to understanding the root causes of poor wellbeing. Assembling the necessary resources, such as WLPs, is also critical to respond to those SDOHs as they arise through an effective ACP process. Hopefully, this article provides a useful roadmap in helping health promotion professionals understand how the ACP process can contribute to their mission of improving individual and population health and wellness.

²⁴ See National Center for Medical Legal Partnership Disability Discrimination Screening Tool, available at <https://medical-legalpartnership.org/download/discrimination-screening-adults/> (last visited November 6, 2022).