

Mr. B's Story: No Health Care Proxy... Unwanted Futile Treatments May Result

Mr. B was an elderly man admitted to the hospital with an incurable leukemia. His disease progressed despite therapy and he refused further chemotherapy. Before he was sent home, he agreed to a DNR order, but he refused to appoint a health care proxy or discuss specific wishes – he said he would do this when it was time. The hospital staff explained that he had very little chance of surviving more than three months. He insisted that he just wanted to be left alone at home and refused to allow hospital staff to notify his family of his illness. The hospital transfused him when he got weak from anemia. He refused nursing home placement. He fired the home care nurses who encouraged him to eat better, saying they were just a bunch of busybodies. He fell down a flight of stairs, hit his head and bled into his brain. Several decisions confronted the hospital staff at this point. They needed to decide whether to do surgery to drain his brain hemorrhage, whether to use a vent to keep him alive for a few extra days or weeks, all in light of his terminal prognosis. His treating physician was certain that he would not want aggressive measures, given his independence and his prior refusal of assistance and further therapy. However, this did not reach the level of clear and convincing evidence articulated in the court case *In the Matter of Westchester County Medical Center, on behalf of Mary O'Connor*, and therefore Mr. B was subjected to invasive and unwanted futile treatments that he never would have wanted, and would not have received had he assigned a health care proxy.

Excerpt from the testimony of Dr. Faber-Langendoen, Director, University Hospital Ethics Consultation Service, SUNY Upstate Medical University, New York State Assembly Health Committee Hearing, December 8, 2005.