



A University of Hawai'i Cooperative Extension Service Project

www.ctahr.hawaii.edu/tcym

Course Objectives



- Increase your knowledge about financial planning
- Improve your ability to make informed decisions



Elder Law -- Health Care Decisions

Presenter



Scott C. Suzuki
J.D., M.P.H.
Attorney at Law

Lesson Objectives



- Understand what is “Informed Consent”
- Learn what is the role of an agent
- Understand who can decide
- Learn how to authorize others to make decisions

Informed Consent



- A patient must provide “Informed Consent” in order to be treated (with some special exceptions)
- A person who has capacity will normally make those decisions on his or her own

Role of an Agent



- Person who acts on behalf of someone else, known as a “principal”
- Common legal concept used in numerous other areas of law
- We can also appoint agents to help make health care decisions

Who are Agents?



If a person lacks capacity, decisions may be made by some type of agent, especially:

- Guardian
- Surrogate
- Advance Health Care Directive
- Physician Orders for Life-Sustaining Treatment (POLST)

Living Will vs. Health Care Directive



- People with capacity designate someone to make health decisions on their own
- In Hawai'i, there are no “living wills”
- Advance Health Care Directives (AHCD) are multi-part documents

Advance Health Care Directive



Legal document with multiple parts:

- Power of Attorney for Health Care (designate an agent)
- Individual Instructions
- Choices for end-of-life treatment, religious beliefs, organ donation, pain medication, etc.

Easy to Execute



Generally very easy to execute

- Forms available from attorneys, doctors, online, etc.
- May be notarized OR witnessed by two non-interested parties (e.g. not the caregiver or the agent)
- Persons signing the instrument must have capacity to do so!

Surrogate



- A person who may make medical decisions on behalf of someone who does not have capacity to do so
- Authorized in the Uniform Health Care Decisions Act
- Confusing method: May be designated or undesignated, but there are complicated details with respect to the appointment and the decision making process

Guardianship



- Court proceeding pursuant to the Uniform Guardianship and Protective Proceedings Act. Codified as part of the Hawai'i Probate Code
- Adjudication of INCAPACITY
- Appointment of a guardian who can make personal decisions for the incapacitated person
- NOT for financial decisions

Becoming a Guardian

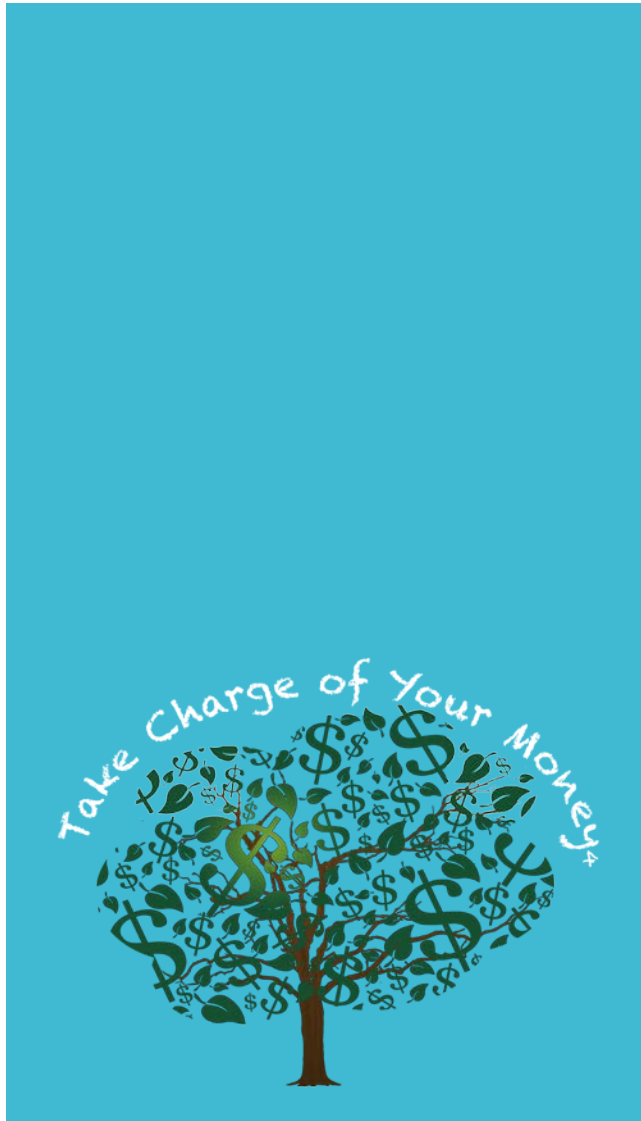


- Petition the Family Court
- Serve interested parties
- Attend hearing to prove incapacity and appropriateness as guardian
- Make personal decisions for individual (not financial)
- File Annual Reports
- No personal liability
- Return to court only for changes in circumstances

Conclusion

- Concept of informed consent
- Concept of capacity
- Concept of agency and who can make medical decisions





- It is important to plan ahead with documents such as Advance Health Care Directives
- Next time, we will cover similar concepts within a financial context

Website &
TV Channels



Take Charge of Your Money₄

- Visit Us

www.ctahr.hawaii.edu/tcym

- TV channels

- 354

- 355

Credits



We would like to thank the following groups for their support:

- University of Hawai'i at Mānoa
 - College of Tropical Agriculture & Human Resources, Cooperative Extension Service, Department of Family & Consumer Sciences
 - Information Technology Services-Academic Technologies
- Scott C. Suzuki, Esq., AAL, M.P.H.