



## DNR, DMOST, and AHCD: Clearing Up The Confusion

We're all familiar with the most typical estate documents: Wills, Trusts, and Powers of Attorney. But there are other types of documents that can and should be a part of your estate plan as well. Today, we'll take a closer look at three commonly used, but easily confused, documents that relate specifically to your health care.

The Advance Health Care Directive, the Delaware Medical Order for Scope of Treatment, and the Do Not Resuscitate order—also known by their alphabet soup of acronyms—all allow you to express your wishes for medical treatment ahead of time. Then, should you become incapacitated or unable to communicate, these documents are available to let your medical team know best to honor your wishes.

**THESE DOCUMENTS CAN GIVE YOU,  
YOUR AGENT, AND YOUR MEDICAL TEAM  
CONFIDENCE IN CARRYING OUT YOUR  
MEDICAL TREATMENT.**

The simplest of these three documents is the Do Not Resuscitate order, or DNR. As its name implies, the DNR is an in-patient medical order that informs healthcare providers that you do not want to be given CPR if your heart stops, or if you stop breathing on your own. This form is typically offered by a hospital or other treatment facility before you undergo treatment. Hospital staff will make every attempt to revive you unless otherwise directed by a DNR (or the next document we will discuss, the DMOST). However, CPR may not be beneficial to some patients, such as those who have suffered a severe stroke or who have cancer that has spread throughout the body. If, for whatever reason, you do not want to be revived, your physician can place the

DNR in your medical chart, so the staff will be aware of your preferences.

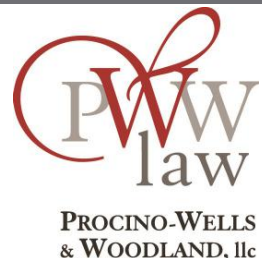
Similar to a Do Not Resuscitate order, Delaware's newest type of form is the Delaware Medical Order for Scope of Treatment (DMOST). The DMOST, introduced in 2015, is more broadly focused. This form is intended specifically for patients with a terminal illness or those who, for other reasons, have a life expectancy of one year or less. But where a DNR is an in-patient medical order (i.e., relating to one particular hospital admission or medical procedure), a DMOST is a standing order that travels with you throughout your treatment. People who are terminally ill will most likely find themselves transitioning between a variety of medical settings, from ambulance to hospital to hospice, in any sequence. Your DMOST travels with you on your end-of-life journey, whereas a DNR does not.

A DMOST also provides more detailed instructions. Like a DNR, a DMOST can state that you do not wish to be revived, but it can also convey your preferences regarding other aspects of treatment, such as life-support or organ donation.

The third type of form is the Advance Health Care Directive (AHCD). The key word here is "advance." Ideally, you should create an AHCD when you are younger—in fact, anyone 18 or older and of sound mind can draft one with the assistance of a lawyer—

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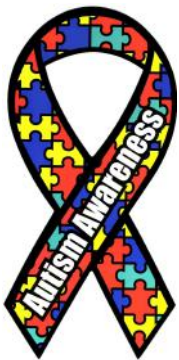
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just in case you find yourself in a situation where you are unable to make decisions for yourself or convey your wishes to your medical team. Let's face it—life is unpredictable. We've all driven past the scene of a bad accident, for instance, and thought about how it could just as easily be us being loaded into the ambulance. An AHCD allows us peace of mind in knowing that, should disaster strike, our wishes are already established. In addition to conveying the same type of information as a DMOST, an AHCD also gives you the opportunity to appoint an agent to act on your behalf, should you become medically unable to do so. This is similar to the way you would use a Will to appoint an executor to see to your affairs after you die. If you become physically unable to communicate with your treatment team or mentally unfit to make decisions for yourself, the person named in your AHCD would assume that responsibility for you. And since your AHCD outlines your wishes, your agent can act with confidence, knowing that he or she is making the decisions you would make if you were able.

The Advance Health Care Directive comes with two additional caveats. First, since it's wise to create one when you are young and healthy, you should review your AHCD every 1 to 3 years to make any necessary changes. Your feelings about end-of-life care may change over time, as may the laws governing it. Or the person you name as your agent when you're 35 may not seem like such a prime candidate 20 years later. Secondly, as with all legal matters, an AHCD should not be undertaken lightly. While a DNR can be drafted by you and your physician, an AHCD should be created under legal counsel. Just as writing your own Will is not a good idea, you should seek the assistance of a trusted law firm that specializes in these issues.

Whether you choose a DNR, a DMOST, an AHCD, or a combination, these documents can give you, your agent, and your medical team confidence in carrying out your medical treatment, and the peace of mind in knowing that they are honoring your wishes.

## **SPECIAL NEEDS TRUST FAIRNESS ACT BECOMES LAW**



A Self-Settled Special Needs Trusts (SNT) is an important legal document that has been around for decades. It is a planning tool that has been historically created by a parent, grandparent, guardian, or court and funded with assets a disabled person (under age 65) receives through inheritance or a personal injury lawsuit, for example.

Transferring assets to a SNT preserves the disabled person's vital needs-based government benefits, including Supplemental Security Income (SSI) and Medicaid, which pay for basic living and medical expenses. The assets in the SNT may then be used to supplement those government benefits in order to improve the disabled person's quality of life. Here's the tradeoff – any assets remaining in the Self-Settled SNT at the disabled person's death must be

repaid to Medicaid up to the amount of benefits provided.

As of December 2016, a disabled person with capacity can establish a Self-Settled SNT for himself. Previously, it was presumed that all disabled persons lack capacity and thus a Self-Settled SNT could only be created by a parent, grandparent, guardian, or court. But, as we know, many disabled persons have the capacity to create their own legal documents. It has taken over 20 years for this oversight to be rectified, but through the Special Needs Trust Fairness Act, capable (albeit disabled) persons now have the independence to make their own decisions in establishing SNTs. This huge victory means that disabled persons can “act in their own interests with their own assets without having to rely on a family member or the courts.”

## TIME OUT — STAFF PROFILE

*Sherri J. Holder, Firm Manager*

### ON THE CLOCK:

Before joining the firm three years ago, Sherri devoted her time to building relationships and teams for leading companies on the Eastern Shore. Those roots matched



perfectly with the natural progression and vision of Procino-Wells & Woodland. Today, Sherri oversees the day-to-day operations of the firm, including financials, support staff, and facilities management. She also orchestrates the firm's marketing efforts and conducts our new estate planning consultations. Most importantly, she is committed to providing leadership for the entire team.

**OFF THE CLOCK:** Sherri raised her two children in Sussex County and now lives in Denton, Maryland. She enjoys reading, spending time on the beach and traveling with family and girlfriends.

## UPCOMING EVENTS

*What is on our Calendar?*

**April 5** — Elder Law Workshop; 12:00 - 1:30 pm, Delaware State University

**April 11** — Off the Clock; 6:00 - 7:00 pm, Milford Place

**April 14** — Offices Closed; Good Friday

**April 27** — Brandywine Village Network - Healthy Aging Series Guest Presentation; 1:30 - 3:00 pm, Lewes Library

**May 5** — Live for Chocolate, Downtown Seaford

**May 10** — Estate Planning Workshop; 1:00 - 2:00 pm, Independence 55+ Community

**May 24** — Elder Law Workshop; 5:30 - 7:00 pm, Berlin Nursing & Rehabilitation Center

*For more information, visit [www.pwvllaw.com](http://www.pwvllaw.com).*

## LEGAL MUMBO JUMBO

*Legal Language in Layman's Terms*

### TRUSTEE

The person who is appointed to manage a trust and its assets under the terms set forth in the document for the benefit of the beneficiaries. This includes matters related to when and how the trust property is distributed to its beneficiaries.

### ***A note from the attorneys...***

Our work over the years has introduced us to hundreds of families concerned about providing for a loved one with special needs. This is a very complicated area of the law that requires a unique discipline, knowledge of public benefits, and compassion. In January we embarked on furthering our awareness in this specialty of law and want to further this discussion with our community. Please visit our website for information on upcoming Special Needs Planning workshops.

*Michele, Owen & Leslie*



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& WOODLAND, llc**

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*Planning today to protect your family's tomorrow.*



## OFF THE CLOCK

**HS**  
*Hannigan-  
Short-Disharoon*  
Funeral Home Inc.

We would like to thank our featured referrer of the month:

HANNIGAN-SHORT-DISHAROON FUNERAL HOME, INC.

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Laurel, Delaware 19956  
302-856-3637

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