

COVID-19 is a Black Swan – And Health Care Directives are a Tool to Prepare.

By Barbara S. Schlichtman



As we follow the news about COVID-19, it triggers thoughts about what would happen if we got sick. An Advance Health Care Directive is the tool to decide who would make health care decisions for us and what those decisions would be.

In the book “The Black Swan” by mathematician Nassim Nicholas Taleb, Taleb discusses preparing for the unexpected. His writing is in the context of business, but it translates to all facets of life. The idea is that if we plan for the unexpected then either we’re prepared or we prevent the Black Swan event. One example Taleb uses is the idea of locked cockpits prior to 9/11. The new doors would have been an investment, yet they may have prevented 9/11. Had 9/11 never happened, would we ever know the value of the investment? Maybe we’d still be wearing shoes through airport security.

In working with people who have health incidents, I see Black Swans show up and change people’s lives in an instant. People slip on ice, fall off ladders, fall off balconies, have strokes and the list goes on. I say this with sincerity and the greatest compassion for families living with these circumstances.

Black Swans happen. COVID-19 is a Black Swan, and it can serve as a reminder to prepare for the unexpected.

Scottish philosopher David Hume coined the term. In the 1700s, he wrote, “No amount of observations of white swans can allow inference that all swans are white, but the observation of a single black swan is sufficient to refute that conclusion.”

Or, in less eloquent terms, Taleb describes the turkey who gets fed every day. So far as the turkey knows, life is good: sleep and eat. Until the day before Thanksgiving. The turkey is surprised, but the butcher is not.

We can be healthy day after day, but that does not mean that the day will not arise where we need a loved one to speak for us. So, this article is intended to encourage you to complete an Advance Health Care Directive. We would be glad to assist you with your Directive along with other documents to appoint surrogate decision makers for finances and estate planning.

However, in this time of social isolation, here are some resources to help you. You can copy and paste these links into your web browser.

- Free Advance Health Care Directive Form: <https://www.maine.gov/dhhs/oads/aps-guardianship/documents/advdirectivesform.pdf>

(In Maine, the form is valid with two witnesses. If you plan to go out of state, it is recommended that you have a notary and two witnesses. However, while we are social distancing, you could execute with neighbors watching you from six feet away. After COVID-19, you can update with an attorney/notary).

- Legal Services for the Elderly offers a frequently asked questions resource for advance health care directives: <https://mainelse.org/content/health-care-advance-directives>

- The State of Maine also offers resources on advance health care directives: <https://www.maine.gov/DHHS/samhs/mentalhealth/rights-legal/ahcd.html>

(There is a link to a psychiatric directive, too. If that is relevant to your planning, then you should be talking to a special needs planning attorney. Perkins Thompson/Maine Center for Elder Law offers assistance with special needs planning.)

- AARP has a page with links to forms for all of the states: <https://www.aarp.org/caregiving/financial-legal/free-printable-advance-directives/>