

Advance Directives: A Step Back Into the Fifties, the View from Cuba

By Ellen G. Makofsky

I left from the Miami International Airport in the dark of early morning. I was part of a small NAELA delegation to Cuba investigating Cuban society and Cuba's legal system as it relates to seniors. The flight was smooth but as I disembarked I knew I was really someplace else. I made my way down the gangway and entered the line. I stepped up to the glass and faced the immigration officer. He studied my passport and visa again and again; when he was satisfied, and all stamps were affixed, I was allowed to pass through a narrow corridor and buzzed through an extremely tiny door. When that door opened, I felt like Alice in Wonderland who had fallen through some mysterious chute.



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Once out of the airport I was treated to soft warm Caribbean breezes and to a place where, in some sense, time had stood still. There were glorious old automobiles parked in the lot. Some were spiffy classic cars lovingly cared for and others were really old cars that some brilliant mechanic kept in operating condition. In Cuba modern architecture is architecture from 1959, the year of the Cuban revolution. As I got close to Havana, I saw many large homes lining the streets which were built in the early 1900s by sugar barons and local industrialists. Most of these homes needed paint and repair, but they were stately. Cuba is a country whose economy is thin, but whose people are so proud of what they have created with so few available resources.

Just as time has stopped in Cuba in regard to the material world, there is a feeling that you are back in the fifties when learning of the Cuban view and practice regarding medical decision making. While in Cuba, our delegation met with many different panels for discussions regarding legal and aging issues. We were often reminded that Cuba provides free medical care to all its citizens and has a well-regarded health care system. Early on, a panel member was asked what hap-

pened to seniors who found themselves very ill with no hope of recovery. The immediate answer was that Cuba does not allow euthanasia or assisted suicide. It was apparent that the panel was uncomfortable discussing end of life decision-making and wanted to shut down the conversation. With persistence, we learned that Cubans who have full mental capacity can designate, in writing, a person to make medical decisions for them in the event they are unable make their own medical decisions. There is no set form or document to accomplish this.

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As the questions continued, our delegates finally realized that making a decision to refuse further medical treatment or to disconnect from life sustaining treatment is an unusual event. Philosophically, family and friends feel a responsibility to provide all available health care for the patient until the last moment. They hope for a miracle. The session concluded with a panelist's comment that we should think more about life and less about death.

Several days later, we met with Dr. Jesus Menendez, advisor to the Cuban Minister of Health and the Director of Geriatrics for Cuba's National System of Health. Dr. Menendez advised that Cuba does not have a system that embraces advanced directives in the same manner as the United States does. Often the patient and/or family do not ask about the patient's prognosis and Cuban physicians tend to postpone talking to patients and families about bad news.

Cultural dimensions shape end of life decision-making. As I listened to our speakers during my Cuban visit, it became evident that surrogate end-of-life decisions were rare in Cuba. Dr. Menendez repeated what we had heard before from the panel, culturally, Cubans hesitate to withdraw medical treatment because they want to wait until the last moment for a life-saving medical miracle to happen. What's more, Cubans, for the most part, are unaware that they have a choice to advise the doctor to stop aggressive treatment. Dr.

Menendez also related that many patients and/or their families are afraid to make their own medical decisions and that the physician is expected to be the decision-maker. Accordingly, Dr. Menendez explained that he tries to prevent physical and spiritual suffering for the patient and his or her family by taking “away the decision from the son or daughter to turn off the light.”

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The Cuban approach to advance directive issues is very different than the approach taken in the United States. The Cuban legal system does not recognize any specific form for living wills and has nothing analogous to New York State’s health care proxy law, MOLST, or Family Health Care Decisions Act. In the United States, the law requires that medical information be given to patients and those they delegate as their surrogates.

Also, the practice of physicians making medical decisions for their patients is gone.

Those Cuban classic cars do allow the viewer to reminisce about the glories of steel and chrome and even fins. Some might like to be transported back to that age when times seemed simpler, but surely we attorneys appreciate our developed system of advanced directives for our clients. Viva Cuba...but not its mechanism for health care decision-making.

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