

## **Ulysses Clause: What Is It and Why Would I Want It?**

How many of us remember the mythical story of Ulysses (also known as Odysseus)? Here's a brief synopsis before we get to why it is important to Advance Directives:

As Ulysses and his men were returning home after the Trojan War, they passed the island of the Sirens, creatures who sang so beautifully that anyone who heard the sound would lose all ability to control the impulse to get closer. Such sailors would crash their ships and die. Ulysses wanted to hear the song of the Sirens but also wanted to make it home to his family. He told his men to tie him to the mast and no matter how much he begged or threatened, they were not to untie him until they safely passed the island. He then had his men fill their ears with wax so they would not hear the song.

So, what does this have to do with an Advance Directive (AD)? Virginia allows something called a Ulysses Clause to be included in an AD. This clause, if included and validated as explained below, allows an agent in an AD to act over the objection of the individual during a time of incapacity. Just like Ulysses told his men to listen to his instructions before he was under the spell of the Sirens, you can tell your agent and your doctor to listen to the decisions you made while you had capacity rather than the decisions you make while you do not.

Let's look at an example. Sally completed an AD two years ago and included a Ulysses Clause giving her agent, Bobby, the right to make decisions over her objection if she became unable to do so for herself (i.e. if she became incapacitated). Sally has a long history of mental health recovery and knows from past experience that when she is not doing well, she does not make the same decisions she would make if she were thinking more clearly. Bobby knows Sally and understands the decisions she would make if she could and is comfortable making those decisions for her when she is not doing well, even if Sally disagrees at that time. When Sally has to go into the hospital and is found to be incapacitated, Bobby consents to medications he knows Sally would want even though she is saying no to them now. Since Sally has a Ulysses Clause, the doctors can give Sally the medications with Bobby's consent.

There are two limitations to the Ulysses Clause: your agent may never withhold or discontinue life-prolonging treatment over your objection and your doctor must state that the treatment to be given over your objection is medically appropriate. You can also set any other limitation on your agent's authority under the Ulysses Clause such as the authority to consent to admission to a psychiatric hospital or the power to consent to certain medications or treatments.

If you choose to include a Ulysses Clause in your AD, you must take an additional step to make it valid: you must have a licensed treatment provider sign a statement that you understand the decision you are making, the power you are giving your agent and the consequences of that decision. You should get this signature at or close to the same time you sign the advance directive. The licensed treatment provider must be one of the following: attending physician; licensed clinical psychologist; licensed physician assistant; licensed nurse practitioner; licensed professional counselor; or licensed clinical social worker.