

Superior Court of New Jersey, Chancery Division.

Family Part

Ocean County

M.T., Plaintiff,

v.

D.T., Defendant.

No. FM-15-721-15.

November 7, **2016**.

Opinion

L.R. Jones, Judge.

*1 L. R. **Jones**, J.S.C.

What happens when two divorced parents and joint custodians of a minor child are unable to reach an agreement on an important medical decision in the child's life? Who has the authority to move forward with treatment, or must the child's health care be held in indefinite abeyance pending potentially lengthy litigation between the parties?

For the reasons set forth in this opinion, the court orders the following:

- 1) As a matter of public policy, joint custody following divorce is generally encouraged. However, when the parties demonstrate an inability to reach a mutually acceptable agreement on issues of high importance in a child's life, such as medical care and surgery, then the concept of "joint custody" may be subordinated to the child's best interests and the need for one parent to have decision-making authority on such issues, so that the child's health needs receive timely and appropriate attention without delaying treatment and placing medical personnel in between two disagreeing parents;
- 2) New Jersey's custody statute, *N.J.S.A. 9:2-4*, authorizes a court to enter an order of joint custody, (*N.J.S.A. 9:2-4(a)*) or sole custody (*N.J.S.A. 9:2-4(b)*), of a child. The statute, however, also includes and authorizes a court to consider a rarely invoked but equally available third option under *N.J.S.A. 9:2-4(c)*, which permits a court to enter any other custody arrangement as the court may determine to be in the best interests of the child. Such arrangement may include, when in the child's best interests, a temporary hybrid combination containing elements of both joint custody and sole custody, regarding a child's need for medical attention or other immediate needs when specific factual circumstances so require.
- 3) Under New Jersey law, both divorced mothers and fathers have equal rights to seek custody of a child following separation or divorce. There is no presumption that that a mother is more fit or

capable than a father, or vice-versa. A custody analysis takes place in a gender-neutral, fact-specific manner;

4) When a court invokes [N.J.S.A. 9:2-4\(c\)](#) and designates one parent as temporary, medical custodian of the child to arrange for and oversee a child's immediate medical care, such arrangement does not otherwise alter any prior arrangements whereby the parties continue to serve as joint legal custodians in other aspects of the child's life, unless expressly ordered by the court.

FACTUAL BACKGROUND

Plaintiff and defendant married in September, 1992 and divorced in February, 2015 after a 23 year marriage. In their 2015 divorce settlement agreement, the parties agreed to share joint, equal custody of their three children, with neither parent technically designated as the children's "primary residential custodian."

In December, 2015, the parties entered into a follow-up consent order reflecting their continued shared custodial arrangement, which further included a mutual agreement that the parties would keep each other advised of the children's health-related issues and medical appointments.

*2 Notwithstanding the above-referenced agreements, the parties experienced a litigious and contentious post-judgment history, raising significant questions as to their actual ability to co-function as "joint custodians" in a constructive, productive and mutually cooperative manner.

The parties' present dispute involves their 16 year old son, Robert,¹ who incurred a sports-related injury to his elbow and arm. Following periodic medical appointments over the past year which were arranged by defendant, a reputable orthopedic surgeon (hereinafter referenced as "Surgeon #1") concluded that the injury was significant enough for him recommend non-emergent orthopedic surgery in order to help alleviate the teenager's pain and discomfort.

Defendant proceeded to schedule the child's surgery for October 21, **2016**. He allegedly did so, however, so without first obtaining plaintiff's prior consent. Thereafter, on October 11, **2016**, plaintiff filed an emergent application and order to show cause before the court, alleging that defendant had scheduled Robert, for arm/elbow surgery without first informing her and securing her approval as joint custodian. Plaintiff objected to the proposed surgery, on the grounds that she wanted more medical information, and that she had not yet spoken to the treating surgeon. Further, plaintiff indicated that she was "seeking a second opinion as to medical necessity." She alleged that she tried to contact defendant but he had not yet responded.

On October 12, **2016**, both parties appeared in court. Defendant represented that he scheduled the surgery following medical advice, after he had taken the child to the doctor on different occasions over the past year. Defendant further represented that notwithstanding the parties' roles as joint custodians, Robert has been primarily staying with him and over the past year has not spent significant time with plaintiff. In turn, plaintiff confirmed this fact, and contended that she would in fact

agree to the surgery, but wanted the opportunity to first speak with the surgeon and potentially obtain a second medical opinion.

At the conclusion of the October 12th proceeding, the court entered an order directing that both parties, as joint custodians, would have the opportunity to jointly reach a consensus on the child's medical care. In attempting to do so, each party would have the full right to communicate with all of the child's physicians, specializing doctors and surgeons, as well as all other health care professional. The following week, plaintiff met with Surgeon #1 and voiced concern about the proposed surgery. As a result of what Surgeon #1 perceived to be a lack of clear consent by plaintiff, however, Surgeon #1 cancelled the surgery until such time as both parents clearly advised him that they consented to his proceeding with the procedure. Meanwhile, plaintiff arranged to meet with another qualified surgeon (hereinafter referenced as Surgeon #2), for a second opinion, which she did with defendant's knowledge but without his participation.²

*3 Ultimately, Surgeon #2 concurred that the surgery should take place. There were, however, some apparent differences between the two surgeons in their proposed surgical approaches. In layperson's terms, Surgeon #1 was apparently proposing a more conservative, limited approach, while Surgeon #2 was proposing a more aggressive approach involving additional intervening steps, with an eye towards possibly reducing the risk of need for a second surgery in the future.

As a result of plaintiff's meeting, she now wished for Robert to proceed with the surgery, but with Surgeon #2 rather than Surgeon #1 as the treating surgeon. Reciprocally, defendant also still wished to proceed with the surgery, but with Surgeon #1 rather than Surgeon #2 as the surgeon.

Meanwhile, the parties, as parents and joint custodians, did not communicate jointly with either surgeon, by phone or otherwise, in any type of conversation where both parties participated and heard from either doctor in the same conversation at the same time. Such a phone conference, had it occurred would have logically given both parties to ask follow-up medical questions, clear up any confusion, and potentially reach a mutually agreeable consensus as joint custodians on how to medically proceed. Instead, following the October 12 proceedings, the parties found themselves in a strange and unproductive situation whereby (A) both parents now agreed the child needed surgery, and (B) two qualified surgeons both recommended surgery, but (c) the child was nonetheless not receiving any surgery at all, and instead was stuck in a surgical stalemate between his parents, and co-custodians on how to medically proceed. Simply put, even after the October 12 proceedings, the parties remained unable to reach a joint agreement on their child's medical care.

Shortly thereafter, on October 24, **2016**, defendant filed his own emergency application and order to show cause, alleging that plaintiff was delaying the child's treatment and had essentially blocking the child's October 21st surgery by refusing to provide parental consent to Surgeon #1 performing the operation. As a result, defendant was now asking the court to grant him "full legal custody " of Robert, including the right to make medical decisions on his behalf.

On October 31, **2016**, both parties again appeared in court, asserting their respective positions and inability to reach a consensual resolution on Robert's plan of care. As each party was essentially offering inadmissible hearsay evidence about what each doctor actually recommended, the court carried the matter four days to November 3, **2016**, so that each party could arrange for their respective proposed surgeons to appear by telephone regarding any questions over the proposed surgery, and any differences in medical approach.

On November 3, **2016**, each surgeon did in fact voluntarily participate by phone to discuss their respective proposed courses of surgical treatment. Each physician confirmed essential agreement with the other surgeon that the child should undergo an ulnar nerve relocation. Notably, neither surgeon took any issue with the reasonableness of the other surgeon's proposed plan of care, i.e., the issue of a more conservative versus a more aggressive approach, and the matter of each surgeon's professional discretion and recommended plan of care. Apparently, the difference between the two surgeons' proposed approaches appeared to rest on the fact that Surgeon #2 recommended an additional step in the procedure, i.e, the shaving back of a small piece of the elbow bone via ostectomy, while Surgeon 1 did not feel the ostectomy was necessary at the present time, based upon the results of prior medical testing. Again, however, neither surgeon took significant issue with the other's medical judgment or plan. From the surgical testimony, the distinction appeared to be wholly one of valid professional discretion, with no objectively discernable "right" or "wrong" answer from a medical standpoint. It is further noted that both doctors know each other professionally as reputable surgeons, and both are affiliated with major hospitals in Pennsylvania.

*4 Following each surgeon's testimony, neither party offered any evidence of any kind supporting or substantiating any claim that either physician's approach and professional judgment was medically unreasonable or contrary to their son's health or best interests. Rather, there were simply two different surgical options presented, with either option apparently being medically acceptable, and no indication that either option was inappropriate. Unfortunately, even after the parties had the opportunity to jointly and simultaneously hear from both physicians in court , and with no compelling evidence that either surgeon was incorrect in the suggested professional approach, the parties still remained unsuccessful as "joint" and "equal" custodians to reach a mutually acceptable parental agreement on how to medically proceed. Instead, they remained at legal loggerheads. As a result, the court was required to break the impasse and decide the matter, so that the child's right to medical treatment could proceed under either surgeon's proposed plan of care.

LEGAL ANALYSIS

As a starting point, the court first notes its conclusion that both parents clearly love their son, and are acting out of what they each believe to be in his best medical interests. The unfortunate problem, however, is that with regard to their son's medical needs, they have in this instance been completely

unable to effectively co-function as joint custodians. Meanwhile, as they quarrel in court and file competing emergent applications against each other over which surgeon to use, their son's health is at risk of free-falling through the parental cracks.

A child's life does not just stand still while his or her parents engage in protracted litigation affecting their interests. *Horswell v. Horswell*, 297 **N.J. Super** 94 , 104 (App. Div. 1997). Therefore, the court must consider a child's present circumstances, on matters affecting his or her present welfare. *Ibid.* In a more normalized and functional situation, parents and joint custodians would have, at the very least, jointly communicated with either or both of the physicians by telephone and attempted to reach a mutual resolution on how to proceed, so as to avoid unnecessary delay in treatment and care. In this **case**, however, while the parties may have meant well in their own minds, the end result was in fact an unnecessary and ongoing delay to their son's potential detriment. The fact that the parties never jointly spoke by telephone with either surgeon until each doctor's telephonic, in-court testimony speaks volumes about the fundamental problem which exists here.

As with many **cases** where parties serve as joint custodians following an acrimonious divorce, the issue of effective co-parenting versus ineffective co-parenting may well come down to the simple element of mutual respect. In theory, joint custody should not be difficult for parties who, although divorced following an unsuccessful marriage, still strive to respect each other's roles as a child's parent. In this **case**, from their demeanors and body language in court, there appears to be a mutual mistrust of, and lack of respect for, each other. In the end, however, even after both parties finally together heard from both surgeons in court, they have still remained functionally unable to consensually resolve important medical issues regarding their son's medical care on an amicable basis.

Under New Jersey's custody statute, *N.J.S.A. 9:2-4*, in any proceeding involving the custody or care of a minor child, the rights of both parents shall be equal. See *Ali v. Ali*, 279 **N.J. Super** 154, 167-68 (Ch. Div. 1994). In this ongoing medical tug-of-war between divorced parents and joint custodians, the court notes that there is no starting, gender-based presumption that a mother or father has any greater or less ability to oversee the health and medical needs of their child-in-common. Any distinction between each parent's comparative ability to care for the health needs of a child must be based logically be based upon a fact-sensitive analysis of the actual circumstances in a given **case**.

*5 Against the backdrop of the mother and father consensually serving as "joint" and "equal" custodians in this **case**, the court further notes that New Jersey's custody statute, *N.J.S.A. 9:2-4* provides that a court may enter an order granting the parties joint custody (*N.J.S.A. 9:2-4(a)*), or sole custody to one parent with appropriate parenting time for the noncustodial parent (*N.J.S.A. 9:2-4(b)*). The statute, however, also explicitly contains a seldom-invoked but equally available third option under *N.J.S.A. 9:2-4(c)*, which authorizes a court to enter any other custody arrangement as the court may determine to be in the best interests of the child.

It is well established that the decision regarding which type of custody arrangement to order following divorce is left to the sound discretion of the trial court.

Pascale v. Pascale, *supra*, 140 **N.J.** 583, 611 (1995) While the overwhelming majority of **cases** may result in an order of either joint custody (*N.J.S.A. 9:2-4(a)*) or sole custody (*N.J.S.A. 9:2-4(c)*), it is this third option which the court finds to be of significant relevance in adjudicating this **case**, relative to the child's best medical interests.

POLICY BEHIND JOINT CUSTODY

Generally, New Jersey has a very strong public policy favoring the naming of both parents as “joint legal custodians” following divorce. See *Grover v Terlaje*, 379 **N.J. Super** 400, 406 (App. Div., 2005). The policy of the state of New Jersey is “to encourage separated or divorced parents to share the rights and responsibilities of child rearing.” *Hoefers v. Jones*, 288 **N.J. Super** 590, 601 (Ch. Div., 1994). Divorced parents remain fully responsible for their children, regardless of the custody arrangement the court orders.

Pascale, *supra*, 140 **N.J.** at 601. In fact, the New Jersey Supreme Court has stated that generally, joint legal custody is a preferred arrangement following divorce since it is “likely to foster the best interests of the child in a proper **case**.” *Beck v Beck*, 86 **N.J.** 480, 488 (1981). *Grover*, 379 **N.J. Super** at 406. Under joint legal custody, the post-divorce authority and responsibility for making major decisions regarding a child's welfare is shared by both parents, irrespective of the child's actual living arrangements or which parent is the primary residential custodian. See *Pascale v Pascale*, 140 **N.J.** at 596; *Beck v Beck*, 86 **N.J.** 480, 486 (1981). *Nufrio v. Nufrio*, 341 **N.J. Super** 548, 555 App. Div., 2001).

It must be recognized, however, that “joint legal custody” is far more than simply an honorary title bestowed upon a parent. *Madison v. Davis*, 438 **N.J. Super** 20, 46. (Ch. Div. 2014). Rather, joint legal custodians have an ongoing responsibility to act in a child's best interests, which includes reasonable communication and cooperation with each other in a positive and constructive fashion. *Id.* An actual ability and willingness to engage in mutual cooperation is part of the basic job description of a joint legal custodian. Further, a joint custodial arrangement requires a common sense decision making process which frees a child from an ongoing web of parental deadlock and avoids “the real-life impracticality of judicial tie-breaking and micro-family management.” See *Hoefers*, *supra*, 288 **N.J. Super** at 601-02.

Joint legal custody is found in the majority of custody arrangements following divorce. *Pascale*, *supra*, 140 **N.J.** at 596. So vital is the need for joint custodians to communicate and cooperate with other, however, that the Legislature literally listed this consideration as the very first of fourteen statutory factors for a Court to consider in adjudicating custody:

*6 In making an award of custody, the court shall consider but not be limited to the following factors:
1. the parents' ability to agree, communicate and cooperate in matters relating to the child. N.J.S.A 9:2-4.

For this reason, some **cases** may not be appropriate for joint legal custody. In certain instances, it is debatable whether joint legal custody can work based upon the parties' ongoing conduct towards each other during or after their divorce litigation. Theoretically, if the evidence suggests that two parents simply cannot co-parent in a functional manner, then the court in its discretion may potentially award sole legal custody to only one parent.

See *Nufrio, supra, 341 N.J. Super at 555*. In other **cases**, joint legal custody may continue, under certain parameters to greater ensure its functionality. Ultimately, the issue comes down to determining an arrangement which under the totality of the circumstances is in the best interest of the child.

THE PARADOX OF JOINT AND EQUAL CUSTODY

In **cases** of parental separation or divorce, a fundamental purpose of joint custody is to allow both parents to participate in major decisions concerning the raising of their child. Theoretically, such an arrangement may work very well when the parent have the ability to still cooperate and communicate with each other in a mutually respectful, mature, and effective manner, for the sake of their child. A major problem arises, however, when as a result of the parties' inability to effectively communicate and/or cooperate and reach joint agreements on important child-related issues, paralysis replaces progress on important child-related issues. In such circumstances, parties often find themselves repeatedly racing into court to request that a **judge** perpetually act as their formal tie-breaker, thereby expending time, energy and resources on litigation which could otherwise be spent on their child.

While this type of unhealthy family dynamic may take place on a host of parental issues and disputes, and while parties are sometimes able to improve the situation with time and effort, the problem becomes particularly troublesome when, as here, the issue in dispute involves a child's proposed medical or surgical care, and when litigation is instituted by each parent against the other and threatens to slow down or impair the child's access to reasonable health care itself. In this particular **case**, the main problem is straightforward: Since the contentious parents have joint and equal rights on medical issues, nobody is actually in charge. Meanwhile, the child continues to go without treatment. This scenario certainly is not consistent with either the policy reasons behind "joint custody," nor the best interests of the child.

Additionally, this court expressly notes that at least one of the two testifying surgeons implicitly expressed concern about even continuing to involve himself in this family dynamic at all, for fear that

a parent might sue him for proceeding with the consent of only one party as opposed to both parents and custodians. One does not have to be a lawyer or **judge** to understand that, generally speaking, some physicians might not want to be continuously pulled into a family's divorce or other courthouse battle. The same is logically true for many other child-related professionals, such as dentists, teachers, tutors, coaches, and even baby sitters who may simply be trying to do their respective jobs and provide important services to a child without unnecessary aggravation, but who somehow end up in the middle of litigation between the child's divorced parents in family court. Ironically, in the name of a child's "best interests," warring joint custodians sometimes end up scaring valuable professionals away from having anything further to do with them or their child, simply because the whole family dynamic becomes too much trouble and aggravation for the professionals themselves. When this occurs, a child may plainly lose out in manner which is contrary to his or her best interests. With specific regard to medical care, no pediatric surgeon should be put in the nearly impossible position of having to manage and concentrate on as critical an issue as a minor's operation, while in the middle of a cross-fire between competing and inconsistent parental instructions of contentious ex-spouses.

THE CHILD'S BEST MEDICAL INTERESTS

*7 New Jersey's custody statute, *N.J.S.A 9:2-4*, expressly requires a court to consider various factors relative to custody and caretaking arrangements, including but not limited to "*the needs of the child.*" Pursuant to *N.J.R.E. 201(b)*, the court takes judicial notice that one of the most paramount and fundamental needs of a child relates to the safeguarding of his or her physical health.³ Another of a child's most paramount needs is to have "functional rather than dysfunctional parents, who can civilly cooperate with each other and serve as positive role models for their child in the process." *Madison v. Davis*, 438 **N.J. Super** 20, 45 (Ch. Div. 2014). Whether the parents in this **case** will ultimately meet the child's needs for greater mutual parental cooperation remains to be seen. Regardless of how this court resolves the present issue between the parents as to who will medically be in charge of their son's surgery, the bottom line is that in **cases** of separation and divorce, a child's needs are greater than that of either parent under *parens patriae* jurisdiction. See *Fiore v. Fiore*, 49 **N.J. Super** 219, 225 (App. Div., 1958); *Hoefers v. Jones*, 288 **N.J. Super** 590, 608 (Ch. Div., 1994); *Quinn v. Johnson*, 247 **N.J. Super** 572, 580 (Ch. Div., 1991). When presented with a choice between parents' rights and children's rights, the choice is and must be the children's welfare and best interests. *In re J.R. Guardianship*, 174 **N.J. Super** 211, 224 (App. Div., 1980).

In re Matter of Baby M, *supra*, 217 **N.J. Super** at 323, rev'd on other grounds, 109 **N.J.** at 396. In the **case** of separation or divorce, no matter what has happened between parents in their marriage or prior divorce litigation, there generally remains a need for cooperation on medical issues such as

surgery, including joint consideration of the pros and cons of an any medical opinion or second opinion, without endless medical gridlock.

Overall, in consideration of the available evidence and the child's best medical interests, the court resolves the present dispute by invoking the terms and spirit of [N.J.S.A. 9:2-4\(c \)](#). Specifically, while the court retains the general status of the parents as joint custodians, the court further temporarily grants defendant, the child's father, authority to serve as the child's temporary medical custodian for the limited purpose of arranging for the child's surgery and care relative to his arm and elbow.

While both parents are fit, and while either parent could serve in this capacity, the court selects defendant to function in this role for certain fact-sensitive reasons. Among these reasons include the fact that defendant has in fact already been overseeing the child's arm injury, having arranged for prior appointments leading up to the surgery. While plaintiff as a joint custodian sought a second opinion, that second opinion did not demonstrate that the original plan of care with Surgeon #1 was inappropriate. To the contrary, the court makes no findings that either surgeon's plan of care is superior to the other, and there is no compelling evidence that either surgery is contrary to the child's best interests,

Moreover, over the past year the child has spent far more time with defendant than with plaintiff, to the point where he now essentially lives with him on a de facto, primary basis. For this reason, any ongoing any medical needs relating to the child's arm and elbow relating to the proposed surgery, both before and after the surgery itself, will more likely occur when the child is residing and/or convalescing in defendant's home as opposed to plaintiff's home.

The court does not find either physician superior to the other one, and will not select one over the other. Instead, the court will defer and leave that parental choice to the parent serving as temporary medical custodian. Accordingly, defendant will in this capacity have authority to select the child's surgeon, provided the selected surgeon is still in fact willing to conduct the surgery. When divorced parents cannot otherwise agree, and when a surgeon is performing surgery on a child, the surgeon logically needs to obtain parental authorization and direction from a designated representative in a clear, unambiguous, and consistent manner. In this **case**, same is not likely to happen unless the court designates one parent as the child's temporary medical custodian under [N.J.S.A 9:2-4\(c\)](#) for the limited purpose of securing treatment for this particular injury.

*8 Defendant, however, does not have the right to keep plaintiff medically in the dark. Regardless of whatever did or did not happen in the past, defendant will, as an integral part of his responsibilities as court appointed medical custodian, have a concurrent and ongoing obligation to keep plaintiff fully advised in advance via email of all scheduled appointments and medical information related to the child's injury and surgical intervention.. Further, defendant shall provide plaintiff via email of at least ten days' notice of any scheduled surgery, including the scheduled date and time of same and the primary surgeon in charge of the child's care. Plaintiff may speak with the treating surgeon as well.

This decision does not otherwise alter the parties' status as court-ordered joint custodians in all other aspects of the child's life. Rather, this is a temporary, hybrid situation established under [N.J.S.A 9:2-4\(c\)](#) for the purpose of allowing the child's surgery to commence without further delay. While the parties may have other issues which may or may not ultimately hinder their ability to reach joint agreements on other important child related issues in the future, this **case** deals specifically with the child's surgery, and there is insufficient evidence at this juncture to expand the scope of the court's ruling, or to grant defendant's application for full or sole legal custody on any other aspects of the child's life beyond this important medical intervention at this time.

Hopefully, the parties' ability to jointly cooperate as joint custodians will improve and become more workable in the future, in a manner consistent with the purpose and spirit of joint custody itself. In maintaining the parties' status as joint custodians, but carving out a temporary order granting defendant authority over the child's immediate medical needs and surgical care relative to his elbow injury, the court finds this solution to be fair, reasonable, equitable, and consistent with the child's present medical interests. In the end, family Court is a court of equity. As such the trial court has broad discretion in domestic **cases** to render decisions which are equitable and appropriate. See [P.J.G. v. P.S.S., 297 N.J. Super 468, 472 \(App. Div., 1997\)](#); [Quinn v. Quinn, 118 N.J. Super 413, 415\(Ch. Div., 1972\)](#) Further, a court of equity has the power to devise its remedies and shape them so as to fit the changing circumstances of every **case** and the complex relationship of all the parties. [County of Essex v. Waldman, 244 NJ Super 647, 666 \(App Div., 1990\)](#). Depending on the circumstances, equitable provisions may vary from one **case** to another See. [Vasquez v. Glassboro Service Assn. 83 NJ 86, 108 \(1980.\)](#)

Further, *parens patriae* jurisdiction is the authority of the State of New Jersey, by its judicial branch, to protect and watch over the interests of a child. [In re Baby M, 217 N.J. Super 313, 324 \(Ch. Div., 1987\)](#), *rv'd on other grounds, sub.nom., Matter of Baby M, 109 N.J. 396 (1988)*. In dealing with the custody and control of minors, the touchtone of the court's jurisprudence is the safeguarding of a child's welfare and happiness. A court may make such order respecting the care, custody, education and maintenance of the children as the circumstances of the parties and the nature of the **case** so determine. See [Henderson v. Henderson, 10 N.J. 390, 395 \(1952\)](#).

For the foregoing reasons, the court exercises *parens patriae* jurisdiction and enters the hybrid order regarding custody herein, thereby concluding this matter.

Footnotes

1

The court utilizes a first name pseudonym for the parties' minor child in this **case**.

2

There is an active restraining order between the parties, but they may now communicate by email or phone about child-related issues. The court ultimately permitted each party to appear at a surgical consult by phone telephonically while the other party appeared in person or telephonically as well, so that the parties would have the opportunity to jointly speak with a surgeon at the same time concerning any proposed, recommended course of treatment, thereby reducing the potential problems of one party simply reporting his or her unilateral version of what the doctor actually recommended.

3

As stated thousands of years ago by Hippocrates, the ancient Greek physician and “Father of Medicine”, “a wise man should consider that health is the greatest of human blessings...” *Regimen in Health* (460 BC - 377 BC).