

LIVING WILL

Living Will

Modern advances in science and medicine have made possible the prolongation of the lives of many seriously ill individuals, without always offering realistic prospects for improvement or cure.

For some individuals the possibility of extended life is experienced as meaningful and of benefit. For others, artificial prolongation of life may seem to provide nothing medically necessary or beneficial, serving only to extend suffering and prolong the dying process.

A living will documents very specific medical instructions that apply while you are still alive, but are unable to communicate your wishes. Unlike a typical Last Will and Testament, it really has nothing to do with how you want your property divided when you die. It simply states that you do, or do not, want artificial life support if you become either:

1. terminally ill and will die within a short period of time without life support, or
2. in an irreversible coma or vegetative state.

A living will also allows you to make decisions regarding whether or not you would like to receive pain medication and artificial nutrition. In addition, you can indicate special wishes or instructions. For example, some people may want to remain on life support for only a certain period of time.

Purpose of Living Will

In order to assure respect for patients previously expressed wishes when the patient lost the capacity to participate actively in decision making or impaired; to facilitate and encourage a sound decision making process in which patients, health care representatives, families, physicians, and other health care professionals are active participants; to properly consider patients interests both in self-determination and in well-being; and to provide necessary and appropriate safeguards concerning the termination of life-sustaining treatment for incompetent patients as the law and public policy of the State, the Legislatures have enacted Living Will/ Advance Directives for Health Care Acts.

Health Care Power of Attorney

A health care agent is a person who you have a close relationship with and can trust to make medical decisions on your behalf in the event you are unable to make decisions. A legal document which appoints a health care agent is sometimes known as a "health care power of attorney."

Unlike the provisions of a standard living will, an agent is able to make decisions on your behalf even if you are not terminally ill or in an irreversible coma, so long as you are not able to make these decisions on your own. In addition, it provides a back-up in case a hospital does not fully honor your intentions in the living will. In some cases, the provisions of a living will are combined with the health care power of attorney.

Canceling the Living Will

A living will can be cancelled or revoked. You can revoke your living will at any time without regard to your mental or physical condition. A revocation is effective upon its communication to the attending physician or other health care provider by you or anyone who witnessed you revokes your living will.

Requirement of Witnesses

The living will requires a writing executed in accordance with the requirements of the state law. It must be either signed and dated in front of an attorney at law or other person authorized to administer oaths, or in the presence of two subscribing adult witness.

If the two adult witness are used, they both must attest that the declarant is of sound mind and not under undue influence. A designated health care representative shall not act as a witness to the execution of the advance directive. Since this is a legal document, it must be executed properly to be valid under the statute