

# The Importance of a Living Will

Years ago, there was a legal battle over a woman named Terri Schiavo that points out the need for people to prepare living wills that help ensure their wishes are carried out. Schiavo had no living will when she suffered a heart attack that caused severe brain damage. Without a written document, her husband and parents battled about what she would have wanted in the way of medical intervention. (Usually, the spouse makes the decision, unless another party claims there is a conflict of interest.)

After being in a vegetative state for approximately eight years, Schiavo's husband petitioned a court to remove her feeding tube. Her parents were opposed to the move and headed to court. It took lengthy legal battles before it was determined that Schiavo wouldn't have wanted to continue measures to prolong her life.

The removal of Schiavo's feeding tube and her controversial death in 2005 increased many Americans' awareness of end-of-life issues. Across the country, bar associations, medical associations and others urged people to create a living will and designate a health care power of attorney or proxy.

Here are some important considerations about health care advance directives, such as a living will or durable power of attorney for health care:

**Purpose.** A living will is meant to specify the type of medical care you want (or don't want) if you're no longer able to speak for yourself.

Years ago, people trusted family members or doctors to make these decisions at the end of their lives. Today, managed care and medical technology have complicated the issue. Patients can live in a coma or "vegetative state" for years, sustained by antibiotics, ventilators and feeding tubes.

But without written guidance, it's uncertain what will happen if you -- or a loved one -- become permanently unconscious or another medical situation prevents your wishes from being known. Doctors might make treatment decisions or information might be gleaned from family members and loved ones about your wishes. If there's no consensus, the matter can lead to family feuds and court battles, as it did with Terri Schiavo's husband and parents.

## Living Will Basics

- Anyone 18 or older and of sound mind can make a living will.
- It must generally be witnessed by two adults who aren't responsible for your medical care or related to you by blood, marriage or adoption.
- A living will only becomes effective if you can no longer make medical decisions or communicate wishes related to your health care.
- Keep a living will with your medical records. Copies should be given to people closest to you, doctors and patient facilities.
- A living will doesn't expire, but it's a good idea to review it periodically to see if it still represents your wishes. If not, you can revoke or revise the document.

A living will isn't the same as a *durable power of attorney for health care* or *health care proxy*, which gives a trusted person the authority to make medical decisions on your behalf if you are unable to do so. However, the two documents are often used in conjunction with each other. (A durable power of attorney or health care proxy selects the person to make the decisions.)

**The Unexpected.** Relatives often agonize over whether to continue artificial feeding, hydration and respiration. This is what a living will is meant to avoid.

But even with a living will, a person's wishes occasionally run headlong into opposition from a doctor or hospital. In that situation, you may want to transfer care to a doctor or medical facility that's more compatible with your own desires.

Most people think living wills are only for the elderly. But disability or the inability to communicate medical wishes can also strike a young person (Terry Schiavo was in her late 20s when she collapsed). So it's in your best interests to have written instructions no matter what your age.

**Language.** One popular living will provision is the "DNR" or "do not resuscitate" order. This means that if a person stops breathing, he or she doesn't want cardiopulmonary resuscitation (CPR.) It's your right to refuse such intervention, and a living will should state this. Some people, particularly the elderly, wear necklaces or bracelets, or carry a wallet card containing this crucial provision.

While DNR orders don't vary much, definitions that can affect care vary from state to state. For example, terms such as "permanently unconscious" or "terminal condition" are defined in each state's statute, so familiarize yourself with how your state interprets them. Some states may not legally recognize a living will, but even in those states, it helps to have one as further evidence of intent. Your estate planning attorney can provide more information.

Today's technology and end-of-life care make living wills a necessity. By making your wishes known in writing, you can spare your loved ones the agony of having to make difficult decisions on your behalf.