

What You Should Know about Living Wills

Q.: What is a living will declaration?

A.: A living will declaration is a legal document you can use to express your wishes about the use of life-sustaining treatment if you should become terminally ill or permanently unconscious. A living will:

- becomes effective only when you are unable to communicate your wishes and are permanently unconscious or terminally ill;
- spells out whether or not you want life-support technology to be used or not to be used;
- authorizes doctors to follow your instructions about the medical treatment you want under these conditions;
- can be changed or revoked by you at any time, but cannot be changed or revoked by anyone else;
- will be followed for a pregnant woman only if certain conditions apply; and
- specifies under what conditions you would want artificial feeding and fluids to be withheld.

Also, legislation that became effective in September 2004 permits you to state within your living will document your intent to make--or not to make--an anatomical gift (such as a gift of organs or tissues) upon or after your death.

Q.: If my living will says I don't want to be hooked up to life-support equipment, would I still get pain medication?

A.: Yes. A living will only affects care that artificially or technologically postpones death. It does not affect care that eases pain. For example, you would continue to receive oxygen and medical care that includes pain medication, spoon-feeding and being turned over in bed.

Q.: Can I specify that I do not want cardiopulmonary resuscitation (CPR)?

A.: Yes. The standard living will form specifically allows you to direct your physician to write a "Do Not Resuscitate (DNR)" order. This living will DNR authorization is useful for conveying your wishes to family members and medical

staff; however, it will not be activated unless two doctors have agreed that you are either terminally ill or permanently unconscious, and it is medically appropriate.

Also, your physician may write a DNR order for you in your medical record or prepare a DNR order in advance on Ohio's DNR Order Form. If you do not wish to receive CPR, you should inform your physician, family members, and the person you've chosen to be the agent for your health care power of attorney.

Q.: Can I have documents saying that, if I become critically ill, I want treatment to be continued using every available means to keep me alive?

A.: Yes, but you should talk with an attorney, because you will not be able to use the standard forms for the documents. You should also talk with your physician about your decision.

Q.: Who decides that I am dying or permanently unconscious without hope of recovery?

A.: If you've indicated that you don't want your dying to be artificially prolonged, two doctors who have examined you must agree that you are beyond any medical help and that you will not recover.

Q.: A living will may be important for a senior citizen, but I'm only 23. Why should I have one?

A.: A living will is designed to give you and your family peace of mind regardless of your age. Traffic accidents are the leading cause of death among Ohioans under the age of 45. The Terry Schiavo case illustrates the importance of these documents and decisions for young adults as well as older people.

Q.: Would my family be notified before doctors stop life-support treatments?

A.: Your family very likely would be informed. Although doctors do not need your family's permission to follow the instructions provided through your living will, they must make reasonable efforts to notify a person named in your living will, or a family member, before following your instructions to withdraw life-support. If the person notified feels your living will isn't being properly followed, or isn't legally valid, an immediate hearing can be scheduled in probate court to decide if there is a legal reason why your instructions should not be followed. By law, no one can change or overrule your living will if it was freely and correctly executed.

Q.: Can I specify that I want my feeding and fluid tubes removed?

A.: Yes. If you want to allow your doctor to withhold artificial nutrition and hydration in the event you become permanently unconscious, you must expressly state this in your living will document. However, you do not need to give any special instructions to allow your doctor to withhold nutrition and hydration if you are in a terminal condition and these measures do not comfort you or relieve your pain.

Q.: Where can I find the standard forms for a living will? Can I draw up my own?

A.: The Ohio State Bar Association has developed a standard living form with the Ohio Hospice & Palliative Care Organization, the Ohio State Medical Association and the Ohio Hospital Association. To obtain a copy of the living will form and other "advance directive" forms (health care power of attorney and organ donation form) mail your request along with \$3 to the Ohio Hospice & Palliative Care Organization at 555 Metro Place N., Suite 650, Dublin, Ohio, 43017, or by visiting that organization's Web site at www.ohpco.org. Though you do not have to use the standard form, your document must include specific language spelled out in the Ohio Revised Code to be valid.

Q.: What do I do after I fill out a living will declaration?

A.: Make several copies. Give one to a trusted member of your family. Keep another with your personal papers. Leave copies with your physician and your lawyer, and, perhaps, your clergy person. If you are admitted to a hospital or nursing home, make a copy available to the healthcare providers and ask that a copy be placed in your medical chart.

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Law You Can Use is a weekly consumer legal information column provided by the Ohio State Bar Association.

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