

Ohioans Can Use Living Will To Express Anatomical Gift Intentions

Q.: I have a living will and a health care power of attorney, and I always take these documents with me to the hospital so the medical staff will know my preferences about medical care if I can't speak for myself. I noticed, though, that my documents do not reference my wish to donate any usable organs or tissues if I should die. Can I include this wish?

A.: Yes. Legislation that became effective on September 16, 2004 permits you to state within your living will document your intent to donate an anatomical gift (such as organs or tissues) upon your death. According to the law, living will forms were required to include these provisions by December 15, 2004.

Q.: If I say in my living will document that I want to make an anatomical gift, is that all I should do to become a donor?

A.: To make sure your anatomical gift intentions are carried out in a timely manner, you should also complete and send to the BMV a Donor Registry Enrollment Form.

The living will form prepared by the Ohio State Bar Association in conjunction with the Ohio Hospice and Palliative Care Organization and Lifeline of Ohio includes a notice of intent regarding your wishes about anatomical gift as well as the complete Donor Registry Enrollment Form. The Enrollment Form is provided at the end of the living will form so you can detach it and send it directly to the BMV. It is wise to also make a copy of the Enrollment Form before you send it to the BMV; you should keep this copy with your living will.

Q.: I also have a health care power of attorney naming my daughter to speak for me about medical issues if I can't speak for myself. Should I say I'm an organ and tissue donor in my health care power of attorney?

A.: You probably will want to talk with your daughter about your wishes concerning anatomical gifts, and let her know you have filed your Donor Registry Enrollment Form with the BMV. The current health care power of attorney form also allows you to reference your wish to make an anatomical gift, so that your daughter will know to check your living will and your Enrollment Form.

Q.: If I decide I do not want to be an organ and tissue donor, can I also indicate that preference in my living will document?

A.: Yes. In the current forms, there is a line you can check to say you do not wish to become a donor.

Q.: If I have an old living will that doesn't mention anatomical gifts, is it still valid?

A.: Yes. You can still use your old living will, and the wishes you've expressed in that living should still be honored. However, if you intend to create a living will after December 15, 2004, your document should state your preference about making an anatomical gift using the specific language the law requires. Also, remember that if you do want to make such a gift, you should do more than state your wishes in your living will document. You should also complete the Donor Registry Enrollment Form and send it to the Bureau of Motor Vehicles so your name can be added to Ohio's official donor registry.

Q.: Where can I get the current living will and health care power of attorney forms?

A.: Your attorney will have the forms and can help you tailor them to meet your specific needs. Also, you may obtain a copy of these forms by mailing a request along with \$3 to the Ohio Hospice & Palliative Care Organization, 555 Metro Place North, Suite 650, Dublin, Ohio 43017, or by visiting that organization's Web site at <http://www.ohpco.org>.

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Law You Can Use is a weekly consumer legal information column provided by the Ohio State Bar Association. This article was prepared by James P. Seguin, an attorney with the Columbus firm of Decker Vonau Seguin Lackey & Viets Co., L.P.A.

Articles appearing in this column are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.