



Living Wills

A Living Will is a document in which you provide directions regarding medical treatment in the event that you reach a point where you are unable to provide instruction yourself. Not everyone wants a Living Will or is comfortable with the concept. It is a very personal decision.

Non-Binding Nature of Living Wills

No one is bound by the provisions in your Living Will. It is merely an expression of your wishes. Whether or not it is considered or followed is going to depend on circumstances when you become incapable of providing direction regarding your care.

Companion Document to Power of Attorney for Personal Care

The Substitute Decisions Act directs your Attorney for Personal Care to consider any wishes that you have expressed when making decisions about your personal care. The Living Will provides a written expression of your wishes and, for this reason, is often referred to as a companion document to your Power of Attorney for Personal Care. It is important to note that your Attorney for Personal Care need only consider this document. He or she is not required to follow the instructions expressed in it.

Sharing Your Living Will

If you choose to draft a Living Will, we strongly recommend that you make your family and, in particular, your Attorney for Personal Care aware of its existence and its contents. This will maximize the chances that it will be considered if you become incapacitated. It also gives you the chance to discuss your wishes and, where necessary, expand on them or explain them. Your wishes, expressed verbally, must also be considered by your Attorney for Personal Care in making decisions for you.

Writing It In Long-hand

Given the very personal nature of this document, we recommend that clients write it out in their own hand-writing. This will enhance the chances of your loved one's taking it seriously and not dismissing it as "some document the lawyer dreamed up and put in front of you."

Getting Started

To assist you in getting started at drafting a Living Will, we offer a sample to clients. It is set out below. However, we stress that this is just one example of a Living Will. It is not meant to be followed slavishly in all cases. Other examples abound on the Internet. In addition to searching under “Living Will”, you might also want to try “Medical Directive” or “Advance Directive”, just two of the other names given to this type of document. In French, try “testament biologique.”

“I, _____, do not want my dying to be artificially prolonged. If I suffer from a terminal condition, my attending physician determines that there can be no recovery from such condition, my death is imminent, and the application of life-prolonging procedures would only serve to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of medical procedures deemed necessary to make me comfortable or alleviate pain.

If I cannot give directions regarding the use or non-use of such life-prolonging procedures, it is my intention that this declaration shall be honoured by my spouse, my family, any guardian of my person, my Attorney for Personal Care, and my medical caregivers.

I understand the impact of this declaration. I am emotionally and mentally competent to make it.”

(Date)

(Signature)

Final Thoughts

A Living Will may not be something that appeals to you. You may prefer to rely on family and your caregivers to “do the right thing” for you if you get to the point where you cannot make critical decisions for yourself. On the other hand, you may feel that providing some guidance may make things easier for all concerned in a stressful situation. Whatever your mind-set, it is a good idea to talk to family, friends, and caregivers so that they have a sense of what you want. And, if you go all the way and draft a Living Will, make sure that your family or your Attorney for Personal Care knows where to find it so that it can be factored into critical decisions in a timely way.

This article is provided for information purposes only. It is not intended as, nor should it be taken as, legal advice. Contact us if you require legal advice on this or any other topic.