

What You Should Know about Living Wills

Q: What is a living will declaration?

A: A living will declaration is a legal document that states your instructions 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.

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. A standard living will form that the Ohio State Bar Association has developed in conjunction with several other state organizations specifically allows you to direct your physician to write a "Do Not Resuscitate (DNR)" order for you if 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 many living will declaration forms available to the public. You should also talk with your physician about your decision.

Q: Who decides that I am terminally ill or permanently unconscious without hope of recovery?

A: These decisions must be made by your attending physician and one other physician, both of whom have examined you. The physicians must determine, in good faith, that you will not regain the capacity to make informed decisions regarding your treatment.

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 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, mail your request along with \$3 to the Midwest Care Alliance at 855 South Wall St., Columbus, Ohio, 43206, or by visiting that organization's website at www.midwestcarealliance.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. This is an important document and an attorney can best advise you about its provisions.

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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This "Law You Can Use" consumer legal information column was provided by the Ohio State Bar Association. It was updated by Columbus attorney Alan S. Acker.