

Living Wills & Durable Powers of Attorney For Health Care

A Living Will is not a Will. A Will is a document that directs the disposition of assets at death, appoints a person to administer the estate and nominates a guardian to care for minor children. A Living Will is basically a document that specifies your wishes for medical treatment if you become terminally ill and are unable to communicate with your doctor.

A Living Will is also commonly referred to as a Health Care Declaration because it is a written declaration wherein you indicate to a physician, hospital, nursing home, etc. in advance your desire for a physician to initiate, continue, withhold or withdraw certain life sustaining medical treatment in the event that you become incompetent or terminally ill. You state your specific wishes in the Living Will in detail to govern actions of the health care provider in the event that you need artificial life support systems and provide authority to the attending physician to terminate life support treatment in the event that it becomes very traumatic and costly for your family.

Although health care providers must comply with and carry out the wishes as stated in

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the Living Will, health care providers can make mistakes, misread or disregard the document. Thus, you should also execute a Durable Power of Attorney for Health Care that chooses someone else as your health care agent to refer to your Living Will and make your health care decisions for you in the event that you cannot do so. Accordingly, your health care agent can hire or fire a doctor or nurse. Your health care agent can act anytime you're unconscious, not just when you're terminally ill. You can only have one health care agent at a time acting on your behalf to make such medical decisions.

Living Wills and Durable Powers of Attorney for Health Care are an essential part of an estate plan. The Living Will and Durable Power of Attorney for Health Care can and should be contained in one comprehensive document. Your Living Will and Durable Power of Attorney for Health Care must be executed prior to your mental incapacity and should be witnessed by a notary public.

The document also should contain the appropriate HIPAA release language that permits your health care agent to



access your medical information. If the Living Will is not prepared or executed properly or before your incapacity, then your attorney may need to go to court in an expensive proceeding to get a court order that can guide the hospital about what your intentions really are for your health care.

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