



LIVING WILLS

The Advocacy Center (AC) is a statewide non-profit agency providing free legal services to senior citizens and persons with disabilities.

WHAT IS A LIVING WILL?

A Living Will is a declaration in which you can state your wishes to have all or certain types of medical treatment withheld or withdrawn if you are suffering from a terminal and irreversible condition, including a profound comatose state with no reasonable chance of recovery.

WHO CAN MAKE A LIVING WILL?

Any competent adult can make a Living Will. In addition, you may give someone else the authority to make the decision to withhold or withdraw all or certain types of medical treatment for you if you are unable to do so. This can be done in a written declaration signed in front of two witnesses.

DO YOU HAVE TO HAVE A LIVING WILL?

No. A Living Will is purely voluntary. If you decide to make a Living Will, then it must meet the legal requirements set forth below.

WHAT HAPPENS IF YOU DO NOT MAKE A LIVING WILL?

If you have **not** made a Living Will **and** you become physically and/or mentally incapable of communicating **and** you have been certified as a qualified patient, then the law provides that other individuals may make medical decisions regarding life-sustaining procedures for you. The order of priority of persons making these decisions is: the person you designated in a written declaration; a court-appointed guardian (curator); your spouse, if you are not judicially separated; your adult children; your parents; your siblings; and other ascendants/descendants (such as grandparents, grandchildren). **NOTE:** If there is more than one child, parent, sibling, or other ascendant/descendant, then the majority within the class (such as children, siblings) must agree. A good faith effort must be made to consult with all members of a class.

HOW DO YOU MAKE A LIVING WILL?

Living Wills may be written, oral or non-verbal (such as hand gestures, use of a communication board). A **written** declaration may be made anytime. This is highly recommended so there will be clear written proof of your decision. An **oral** or **non-verbal** Living Will **may** be made only **after** you have been diagnosed as suffering from a terminal or irreversible condition.

WHO CAN BE A WITNESS TO A LIVING WILL?

Each type of Living Will requires that the declaration be made in front of **two witnesses**. They must be competent adults who are **not** related to you by blood or marriage and who are **not** entitled to any part of your estate. A written declaration must be signed by you (the declarant) and both witnesses. A Living Will does not need to be notarized.

WHAT KINDS OF TREATMENT CAN BE WITHHELD OR WITHDRAWN?

Life sustaining procedures (LSP) are medical interventions (such as respirator, kidney dialysis, chemotherapy) which can postpone the moment of death but which do not provide a cure. They can be withheld or withdrawn. LSP does not include anything which provides comfort care such as pain medication. This will not be taken from you if you have a Living Will. **You may decide whether or not you want for food and water to be withheld or provided. This is your choice, but you must be specific about it in the living will.**

HOW CAN YOU ENSURE THAT YOUR WISHES WILL BE FOLLOWED?

Give a copy of your Living Will to your physician immediately so it can be made part of your medical record. Also, tell your close friends and/or family members so they will know your wishes. Keep a copy of your written declaration and give another copy to someone you trust.

WHEN DOES A LIVING WILL GO INTO EFFECT?

A Living Will takes effect when you become a **qualified patient**. You would become a qualified patient only **after** you have been examined by two physicians (one of whom is your treating physician) **and** both certify in writing that you have a terminal and irreversible condition. **NOTE** Effective January 1, 1992, profound coma with no reasonable chance of recovery was automatically included within the definition of “terminal and irreversible condition.” Moreover, all prior Living Wills are presumed to include it, unless they clearly provide otherwise. Therefore, if you **do** want to have life sustaining procedures if you are in a profound coma, then state this in your Living Will.

CAN YOU CHANGE YOUR MIND AND REVOKE YOUR LIVING WILL?

Yes, You may revoke (take back) your Living Will at any time, even if you are not mentally competent.

HOW DO YOU REVOKE (TAKE BACK) YOUR LIVING WILL?

You may execute a written revocation; deface, tear, burn, etc. your written declaration; make an oral or non-verbal expression which declares your intent to revoke it. Remember, the revocation does not go into effect until you communicate it to your physician, who, in turn, must make it part of your medical record. Tell other friends and relatives that you have changed your mind.

HOW DO YOU REGISTER YOUR DECLARATION?

If you wish, you may register your Living Will and/or your revocation with the Office of the Secretary of State. For information, call (225) 342-2084.

For Assistance: Call TOLL-FREE 1-800-960-7705

To request services in Vietnamese, call 1-800-960-7705, extension 4. Để đòi hỏi những công tác (dịch vụ) bằng tiếng Việt, xin gọi 1-800-960-7705, mở rộng 4.
For information in Spanish, please call 1-800-960-7705, ext. 3. Para información en español por favor llame 1-800-960-7705, ext.3.

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