
QUESTIONS AND ANSWERS ON LIVING WILLS

COLUMBIA LEGAL SERVICES

SEPTEMBER 2002

1. What is a living will?

A living will is a paper that tells your doctors or others providing your health care when you want them to stop life-sustaining medical treatment and let you die. It can take effect in only two situations: *either* if you are terminally ill and will die soon, so that life-sustaining procedures would only prolong the process of dying, *or* if you are in a permanent unconscious condition. Living wills (also called "health care directives," "advance directives" or "directives to physicians") are authorized by Washington law.

Life-sustaining procedures affected by a living will may include manual or mechanical efforts to restore heartbeat or breathing after they have stopped (called "cardiopulmonary resuscitation" or "CPR") or the use of a mechanical device (called a "respirator") to keep a person breathing. These are only two examples.

Procedures needed to ease pain are not affected by a living will - a person with a living will can still expect to be given treatment needed to ease pain.

2. What is a health care power of attorney?

A health care power of attorney allows someone you appoint to make medical-treatment decisions for you if you are no longer able to make them yourself. It need not be limited to decisions about life-sustaining treatment; it can also apply to other kinds of medical decisions. A living will can be combined with a health care power of attorney.

Guided by your living will, the person you appoint can address issues that are not specifically mentioned, and may not have been considered, when you signed the living will. The living will form attached to this leaflet contains a paragraph (#6) that you can use to give someone a health care power of attorney. It is written to take effect if you are no longer able to make medical-treatment decisions for yourself. If you want to use the attached living will form, but do *not* want to give anyone a health care power of attorney, you can simply cross out that paragraph.

Columbia Legal Services and the Northwest Justice Project have a pamphlet available that explains powers of attorney more generally. It has forms that apply to financial decisions as well as medical-treatment decisions. The pamphlet is available on the web site of the Northwest Justice Project - www.nwjustice.org. (Click "self help resources" on the home page; then click "senior citizens" on the self help

resources page; finally, on the senior citizens page, under the heading "Other Senior Citizen Information," click "Questions & Answers on Powers of Attorney.")

3. How can I prepare a living will and what should it say?

A living will form that includes a health care power of attorney provision is attached.

We have tried to design a form that would be useful for many people. But no standard form will be satisfactory for everyone. If you have questions about the form, or if you want to say something different from what is said in it, you may wish to talk with a lawyer.

You may also wish to discuss the subject of living wills with your doctor before you prepare one, to help you understand what kinds of medical decisions might be affected by a living will. (If you sign a living will, you may, in any case, wish to discuss it with your doctor after you sign it, so that he or she will understand your wishes. Some doctors or other health care providers are unwilling to withdraw life-supporting treatment in some circumstances, even though withdrawal is directed by a living will and permitted by law. If your living will contains provisions that your health care provider will not follow, it is desirable to know this in advance so that you can consider alternatives.)

Among people who want to use living wills, there are differing views about whether food or water should be given artificially (by tube

or intravenously) when other life-sustaining treatment is stopped. The attached form has places for you to make a specific choice about both food and water.

4. How must a living will be signed?

To be valid, a living will must be dated and signed in the presence of two witnesses. Both witnesses must also sign. The witnesses may *not* be: (a) related to you by blood or marriage; (b) entitled to inherit money or property from you if you die; (c) people you owe money; (d) your attending doctor or the doctor's employee; or (e) an employee of a health facility where you are a patient. A living will does not need to be witnessed by a notary.

5. What should I do with a signed living will?

It is a good idea to sign two copies of the living will. Keep one for your own records. Give one to your doctor or health care facility and ask that it be kept with your medical records.

It is also a good idea to show your living will to, and discuss it with, family members or friends who are likely to be looked to for assistance if your health fails. They are more likely to help assure that your wishes are followed if they have a clear understanding of your wishes.

6. What if I change my mind?

A living will may be cancelled at any time. It may be cancelled either:

- by physically destroying the document, or authorizing someone else to do so in your presence;
- by a written cancellation that is signed and dated; or
- by orally telling your doctor that you wish to cancel the living will.

6. What if I move to another state?

There are many similarities and some differences among the living will laws in different states. It is likely that a living will that is valid in Washington will also be valid in another state. However, if you move to another state, or spend an extended period of time in another state, it may be wise to consult someone in that state about laws that apply there.

Additional information about living wills:

The Washington State Department of Social & Health Services also has a pamphlet about living wills, entitled "Your Legal Right to Make Decisions about Health Care & Advance Directives in Washington State." It is available on the DSHS web site at www.aasa.dshs.wa.gov (select "publications") or by writing to DSHS Warehouse, P.O. Box 45816, Olympia, WA 98504-5816, and asking for "DSHS 22-015(X)." In addition to the English-language version, the publication is available in Cambodian, Korean, Laotian, Russian, Spanish and Vietnamese.

Living Will 9-02 (9-17-02)

Prepared by
COLUMBIA LEGAL SERVICES

Living Will with Health Care Power of Attorney

1. If I am unable to give directions about the use of life-sustaining treatment, I want my family and any physician to honor this directive as the final assertion of my legal right to refuse medical treatment.

2. I direct any physician to withhold or withdraw life-sustaining treatment and to let me die *if* at any time I should either

A. have, in the written opinion of my attending physician, an incurable injury, disease, or illness, causing an irreversible terminal condition that will cause death within a reasonable period of time, and if the use of life-sustaining treatment would serve only to artificially prolong the process of dying,
or

B. be diagnosed in writing by two physicians, one of whom is my attending physician and both of whom have personally examined me, to be in a permanent unconscious condition.

3. I do not want either cardiopulmonary resuscitation (manual or mechanical efforts to restore heartbeat or breathing after they have stopped) or assisted ventilation (use of a respirator to help keep a person breathing) under the circumstances described in 2(A) or (B) above.

4. I **do** / I **do not** [*circle one and cross out the other*] want tube feeding (use of a tube through the nose or abdomen for feeding a person who can't take food by mouth) under the circumstances described in 2(A) or (B) above.

5. I **do** / I **do not** [*circle one and cross out the other*] want artificial hydration (giving liquids by tube or intravenously to a person who can't drink) under the circumstances described in 2(A) or (B) above unless it is necessary for my comfort.

Health Care Power of Attorney

6. I give a durable power of attorney to _____ to make decisions for me, consistent with my living will, about medical treatment, including the withholding or withdrawal of medical treatment, in the event that my treating physician determines I have lost the mental capacity to make such decisions for myself.

Date: _____

Signature

Printed name: _____

Address: _____
street address city state

Statement of Witnesses

The maker of this living will (the "declarer") signed it in my presence. He or she has been personally known to me and I believe him or her to be capable of making health care decisions, to understand this living will, and to have signed it voluntarily. I am not related by blood or marriage to the declarer, and I am not now entitled to receive any portion of the declarer's estate, either by will or by operation of law, or as a result of any claim against the declarer. I am not the declarer's attending physician or an employee of that physician or of a health facility in which the declarer is a patient.

Date: _____

Witness: _____
Signature/Address

Witness: _____
Signature/Address

[See Revised Code of Washington 70.122.030]

[CLS 9/02]