

Connecticut's New Living Will Law

On October 1, 2006, Connecticut changed its law on living wills, health care directives, and appointments of a health care representative. The law is no longer based on merely relieving health care providers of legal liability for "pulling the plug." The new law emphasizes respect for the wishes of the patient.

A living will tells your family, your doctor and other health care providers what treatment you want if you are in a terminal condition. If you are in the final stages of an incurable medical condition, you may not want life-support treatments such as cardiopulmonary resuscitation (CPR), artificial respiration, major surgery, blood transfusions, artificial hydration, kidney dialysis, or tube feeding. On the other hand, you may want food and fluids to be offered by mouth, medication to alleviate pain, favorite songs to be played, or spiritual books or famous poems read to you. You may want to make it clear that you want to die in your home or have family pictures near your bed or have your hair washed on a regular basis. Now the law encourages you to state your wishes.

The Connecticut General Assembly further enhanced your power to express your health care wishes by allowing you to give health care directives even if you are not in a terminal condition. Any person over the age of 18 can execute a document that contains directions as to any aspect of health care. If you cannot personally direct your physician as to your medical care, your physician and your family must follow the wishes stated in the document.

To assure that health care providers follow your wishes, though, it helps if you have appointed a health care representative. You appoint a health care representative by signing a document. Your representative must have enough assertiveness to overcome the tendency of some health care providers to do what is easiest for them instead of following your wishes. Choose someone you know who shares your views as to health care and will be at your side if you cannot make health care decisions for yourself. Many of our clients like to name more than one person as their health care representative and allow whoever is named and present to make health care decisions. Make sure the document appointing your health care representative gives your representative the right to review and receive your health care records. Otherwise, the health care privacy laws may bar your representative from receiving the information the representative needs to make informed decisions.

Once you have signed these important documents, where do you keep them? It will do no good if the documents are stored away in your safe deposit box. Give copies to your health care representative and let him/her know where the originals are kept in your house. Carry a copy in your purse or brief case. Send copies to family members so they will all know what you want. If you travel a lot, consider registering your documents with the U.S. Living Will Registry (www.uslwr.com [1]). The Registry allows health care providers anywhere in the world to read a pdf version of your documents.

In reviewing the latest court cases on end-of life decisions, what strikes me is how young most of the patients were at the time they became terminally ill. Terri Schiavo was only 27 when she collapsed in her home. She had an undiagnosed eating disorder (bulimia). She was in a persistent vegetative state for 15 years. If she had executed a living will, the 7-year legal battle between her husband and her parents might not have occurred.

A 1990 U.S. Supreme Court case involved Nancy Cruzan, a 26 year old who lost control of her car in Jasper County, Missouri. Her car rolled over into a ditch and she suffered permanent brain damage. After 4 years in a persistent vegetative state, her parents sought removal of her feeding tube. But it took 3 years and numerous appeals to establish her right to have her feeding tube removed.

The lesson of these cases is not to wait for the end of life to complete these important documents. You can save yourself and your family unnecessary misery by clarifying your health care wishes. Let us help you prepare your living will, health care directive, and appointment of health care representative to assure they comply with the new law.

Joseph A. Cipparone, Esq. CFP, wrote this article. This information is for general purposes only and does not constitute legal advice. No taxpayer can avoid tax penalties based on the advice given in this newsletter. For specific questions related to your

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