

Advanced Directives: The Living Will

The law in the State of Louisiana states each person may decide about their own medical care. That includes deciding about respirators, surgery, medications, or procedures when you, the patient, have a terminal and irreversible condition. That means a condition that will not improve or get better.

This law states your wishes must be followed even if you are no longer able to make decisions about your medical care. The way that you are able to do this is with a **living will**.

What is a living will?

A **living will** in Louisiana, is a legal document or paper which allows you, the patient, to decide about the medical treatment you want if you have been diagnosed as having a terminal and irreversible condition, or you are in a coma and not able to express your opinion at the time. In a **living will**, you may state that life sustaining procedures be withheld or withdrawn and you be allowed to die naturally. You may state you only want pain medicine and other care to do no more than provide relief from pain and unnecessary suffering.

Who may make a living will?

Any adult may, at any time, make a written **living will** which will tell his/her doctor to withhold or withdraw life-sustaining procedures if he/she is diagnosed as having a terminal and irreversible medical condition; or, is in a coma with no reasonable chance of recovery provided:

1. The written document has been signed by the patient in front of two witnesses who must also sign the document.
2. The witnesses are competent adults who are not related to the patient by blood or marriage and who would not be entitled to any portion of the patient's estate.

An oral or nonverbal statement of the patient's wishes may also be made by an adult before two witnesses (as stated above) or by any non-written means of communication. An oral or nonverbal statement may only be made **after** the patient has been diagnosed as having a terminal and irreversible condition or is in a coma with no reasonable chance of recovery.

NO ONE IS REQUIRED TO FILL OUT THESE DOCUMENTS, but you have the CHOICE to do so now instead of leaving the decision to your family in a time of crisis. The care you receive in the hospital or from your physician while homebound will not be changed should you decide not to make a **living will**.

Responsibility to notify physician

It is your responsibility to notify your doctor that you have made an Advance Directive (**living will**). However, if you become unable to communicate this to your doctor, then any other person who knows about your Advance Directives may inform the doctor of it.

Who else may make a living will?

Provided an adult patient has not already made a **living will**, the law gives the following people, in the order listed, the right to make a **living will** on behalf of that adult patient:

1. The court-appointed guardian of the patient, if one has been appointed.
2. The patient's spouse, not legally separated.
3. The patient's adult children, as a class.
4. The patient's parents, as a class.
5. The patient's brothers and sisters, as a class.
6. The patient's relatives, ascending or descending, as a class.

Unless the **living will** is made by the court appointed guardian or the spouse (not legally separated) and there is more than one person within a class named above then the declaration shall be made by all of that class available for consultation upon good faith efforts to secure participation of all of that class. Also, two witnesses, as described above, must be present at the time that the **living will** is made.

What about a child or minor?

If a minor (a child under eighteen [18] years of age) has been diagnosed and certified as having a terminal and irreversible condition or as being in a coma with no chance of recovery, the following persons may volunteer to make a **living will** on behalf of the child.

1. The spouse, if he/she is of legal age; or
2. If there is no spouse, or if the spouse is not available or unable to act, or if the spouse is also a minor, then either the parents or guardian of the minor.

The **living will** must be signed by the person it in front of two witnesses, as described above, the witnesses must also sign the papers. However, the person named above may **not** sign if he/she knows that the minor does not want a **living will**, or the parents or spouse of legal age do not agree on the **living will**.

Does a living will affect insurance?

No. Making a **living will** does **not** affect or change any life or health insurance policy which you may have.

Can a living will be changed?

Yes. Under the law, a **living will** any be stopped at any time by **the person who made it** without regard to his/her mental state by canceling, burning, tearing, crossing out, or otherwise destroying it. The person who made the **living will** may also tell someone else to destroy it. He/she may write a letter (signed and dated) canceling the **living will**. He/she may make an oral or nonverbal expression canceling the **living will**.

NOTE: Cancellation of the **living will** by any of the means above will only go into effect once the doctor is informed.

The above is not legal advice. For additional information and assistance before reaching a decision, we suggest you discuss the option of creating a living will with your doctor, lawyer, pastor, and family members. After you are admitted to the hospital, any of the staff will be happy to put you in touch with a Social Worker for additional information.