

LIVING WILL

The Living Will Act includes the following suggested form:

Declaration (As included in the Illinois Living Will Act, Ill. Rev. Stat. 775 ILCS 35/1)

This declaration is made this _____ day of _____ (month, year).

I, _____ being of sound mind, willfully and voluntarily make known my desires that my moment of death shall not be artificially postponed.

If at any time I should have an incurable and irreversible injury, disease, or illness judged to be a terminal condition by my attending physician who has personally examined me and has determined that my death is imminent except for death-delaying procedures, I direct that such procedures which would only prolong the dying process be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, sustenance, or the performance of any medical procedure deemed necessary by my attending physician to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such death-delaying procedures, it is my intention that this declaration shall be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

Signed _____

City, County, and State Residence _____

The declarant is personally known to me and I believe him or her to be of sound mind. I saw the declarant sign the declaration in my presence, or the declarant acknowledged in my presence that he or she has signed the declaration, and I signed the declaration as a witness in the presence of the declarant. I did not sign the declarant's signature above for or at the direction of the declarant. At the date of this instrument, I am not entitled any portion of the estate of the declarant according to the laws of intestate succession or to the best of my knowledge and belief, under any will of declarant or other instrument taking effect at declarant's death or directly financially responsible for declarant's medical care.

Witness _____

Witness _____

(Comment: Even though the Act states that another form, which may include specific prohibitions or types of procedures that may be acceptable, it is advisable that any variation from the form above should be subject to review by an attorney to assure its validity).

Changing Your Decision

You can at any time amend, alter, or void your living will or durable power of attorney by destroying the document or preparing a written statement declaring your intent to set them aside.

The forms in this brochure allow you to direct your family, your health care providers, and others involved in your medical care to follow your wishes, should the time come when these difficult decisions must be made. You need not consult an attorney to put any of these into effect; it is very important, however, that you discuss your decisions and these documents with your family, your physician, and your legal advisor, to assure that your wishes are followed.

Consequence of Not Executing an Advance Directive

If you do not execute an advance directive and your medical condition is terminal, incurable, or irreversible, you lack decisional capacity, or you are permanently unconscious, a surrogate may be appointed for you. This surrogate will have the authority to make life-sustaining treatment decisions for you. In other circumstances, your hospital, another health care institution or doctors may be required to do everything in their power to keep you alive, no matter what your condition or chances of recovery.

Determining Your Medical Care Is Your Right

You Can Decide Today About the Care You Will Receive in the Future

While advances in medicine and medical technology can save many lives that only fifty years ago might have been lost, the issue of quality at the end of life has come under intensive judicial and public scrutiny. In the state of Illinois, it is your legal right at all times to determine the degree and kind of care you wish to receive. This includes your right to consent to or refuse medical care and treatment as long as you are capable to do so. You can also decide today and direct your health care providers and family about the care you want in the event of an illness or injury, including terminal illness, if you are unable then to make these decisions. You can decide today if you want procedures such as artificial breathing and kidney treatment, feeding through a tube or a vein, among others, if they would only prolong the process of dying and do no more than delay your death.

Decisions about the quality of the end of life – about life support systems, aggressive resuscitation efforts, about hydration and nutrition of comatose patients – are all serious, personal decisions each of us must arrive at privately. Neither the law nor any person can require you to make such a decision against your will. If you wish to exercise your right to determine the care you receive should you be injured or ill, this information will help you make an informed decision.

How to Indicate Your Decisions

In Illinois two documents are available for your use in directing your health care when you are incapable to do so: the durable power of attorney for health care and the living will. You can use either or both of these documents or you may write out your wishes and directives. The choice is yours and you can change your mind at any time.

Durable Power of Attorney for Health Care

In the state of Illinois the best way to assure that your instructions about health care are followed is through the use of a durable power of attorney for health care.

Using this document you can designate someone else, called an agent or surrogate, to make decisions about your health care in the event you are unable to do so yourself. This person can, by law, be anyone you choose over the age of 18 (not 21) except the doctor providing your care. This person will have the legal right and responsibility to make decisions about your health care, including the initiation and termination of medical procedures and life support systems, organ donation, and autopsy.

For example, a person with irreversible brain injuries remains in a coma from which doctors have determined the patient will never recover. The agent designated in the durable power of attorney for health care can refuse the antibiotic treatment that the hospital would administer should the patient develop pneumonia. Without antibiotics, the pneumonia would most likely be fatal. Because the patient has determined – in advance, through discussion with surrogates and by signing the durable power of attorney – that death should not be delayed in this circumstance, the agent is authorized to decline lifesaving efforts.

Most people select a member of their family or a close friend to act as their surrogate in these situations. You may designate several surrogates, in case your first choice of a decision-maker is unavailable or unwilling to serve. Whoever you choose, you should discuss your wishes with them.

While your caregivers must respect your surrogate's decisions and the court will uphold them, the surrogate or agent can be removed by the court if doing so is determined to be in your best interest. Your physician and the hospital will also play a part in that decision.

If you decide to execute the durable power of attorney, be sure to inform your doctor, the hospital, and your family. Keep the form in a safe place and let someone you trust know where it is.

The Living Will

The living will does not appoint another person to make your health care decisions but declares your intent that if your medical condition is incurable and irreversible the people taking care of you not delay your death, if it is imminent, through lifesaving measures. It allows you to control your health care even if you cannot communicate with the people caring for you.

For example, a cancer patient whom the doctors estimate has only weeks to live can, through the use of a living will, instruct the hospital that no extraordinary measures are to be taken to prolong their life; if they suffer cardiac arrest, for example, the hospital is not to attempt to revive them. They may also choose to decline the future use of a respirator, or techniques such as blood transfusions or kidney dialysis.

Any adult (over the age of 18) of sound mind can make a living will. It must be created as a voluntary act, must be signed by a patient and must be witnessed by two adults. The living will has no effect legally unless the physician responsible for the patient's care certifies, in writing, that the patient's condition is terminal, that death is imminent, and that death-delaying procedures will only prolong the process of dying. Nutrition and hydration may not be withheld or withdrawn if such act and not the existing medical condition will cause death. The living will form in this brochure has been developed by the Illinois legislature; you may include other directions and instructions, as well.