



The preferences specified in a living will may be made within the context of various hypothetical medical scenarios, such as a case in which the individual is severely impaired cognitively, has a serious irreversible illness, has a terminal condition, or is permanently comatose. Under the various scenarios, the individual may indicate preferences regarding such issues as nutrition and hydration, life-sustaining treatment, do-not-resuscitate orders, do-not-hospitalize orders, pain management, euthanasia, or compliance with a particular religion. The living will may express the preference to be cared for at home rather than in a hospital or institution. It may also cover issues such as organ donation, autopsy, burial or cremation, and memorial services.

The living will provides guidance to medical providers and to the individual whom an elder may appoint as the healthcare proxy. Its usefulness is limited, however, by the inherent difficulty involved in anticipating future medical problems, medical advances, and personal issues.

## MANAGING END-OF-LIFE ISSUES

By Donald D. Vanarelli, Esq

While personal autonomy has long been recognized as a hallmark of modern society, patient autonomy has more recently emerged as a hallmark of modern medical ethics. Federal law now recognizes an individual's constitutional right to refuse medical treatment and aims "to ensure that a patient's right to self-determination in healthcare decisions be communicated and protected." But too often, an older adult's ability to retain control of his or her autonomy ends with the loss of the ability to comprehend or communicate treatment decisions. Therefore, particularly because your professional practice is devoted to our aging population, educating your clients about the use of advance directives may be the starting point of an ongoing dialogue to ensure that the elder's wishes are respected even after his or her ability to communicate those wishes has ceased.

An advance directive (also known as a healthcare advance directive or instruction directive) is a written statement made by the individual concerning future healthcare wishes. Advance directives consist of two parts: a living will and a healthcare proxy (a healthcare power of attorney).

### Directing Medical Treatment

A living will is a document in which an individual provides direction regarding medical treatments he or she wishes to accept or refuse under various circumstances. An elder may provide itemized guidelines for carrying out future medical needs in the event he or she is unable to participate in making such decisions.

### Healthcare Proxy

A healthcare proxy is a document designating an agent (surrogate decision maker) to act on the individual's behalf with respect to medical decisions. A healthcare proxy may be written to give an agent limited or broad authority over the patient's medical affairs, and it need not be restricted to decisions concerning end-of-life care. A healthcare proxy document may be executed in conjunction with a living will. However, just as a living will may be a stand-alone document, a patient may choose to execute only a healthcare proxy without a corresponding living will.

The healthcare proxy is more flexible than the living will because as specific future medical issues and circumstances arise, the agent has the opportunity to evaluate those circumstances, some of which may not have been contemplated or addressed by the elder in his or her living will.

Interestingly, in one survey, patients reported a desire to exercise control over their end-of-life decisions but chose living wills that provided general statements regarding end-of-life decisions (such as the wish to die with dignity) rather than an overly specific one. In conjunction with the broader living will, the patient would also designate a healthcare proxy who would have substantial authority to make specific decisions in a given situation in order to carry out the individual's generalized care goals.

Because the healthcare proxy is potentially given vast powers and responsibilities, it is vital that the proxy be carefully chosen. It is also important for an older adult to consider appointing an alternate healthcare proxy in the event that the primary proxy is unable to serve.

Emotional reactions to end-of-life decisions prevent many older adults from planning for their future healthcare needs. Nevertheless, it is vital to stress to patients and clients that planning now for future healthcare is one of the most important acts elders can perform, both for themselves and their loved ones.

The Agency for Healthcare Research and Quality Advance Care and Planning suggests that in the best of circumstances, the patient, the family, and the physician have held discussions about treatment options, including the length and invasiveness of treatment, the chance of success, overall prognosis, and the patient's quality of life during and after the treatment. Ideally, these discussions would continue as the patient's condition changed.

## Periodic Review

## Making Wishes Known

elder should also let these individuals know where the original is located.

## Taking End-of-Life Control

Though issues surrounding end-of-life decisions are seldom easy, AARP suggests that it's important to counsel patients and clients that these documents represent "a critical statement that your life is your own, and so is your death, and that the decisions about both belong to you."

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