

Living Wills
by
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QUESTION: Many of my patients (both those who are now healthy, and some who face surgery or a progressive, debilitating disease) have expressed interest in creating a “Living Will.” I know very little about the subject. What is a “Living Will”? How should I advise my patients?

ANSWER: A California “Living Will” (or “Declaration”) is a legal document that allows competent adults to make decisions about life-sustaining treatment before treatment is needed. If, after creating a “Living Will,” a patient becomes unable to make decisions related to his or her health care, this document reflects the patient’s prior decision concerning whether some, none or all life-sustaining procedures should be withheld or withdrawn, and under what circumstances. This document might also reflect the patient’s desire for specific life-sustaining and/or non-life-sustaining treatment (e.g., pain medication).

As a physician, you may be asked about the kinds and purposes of certain treatment, whether the potential need for such treatment exists in an individual case, and/or whether the treatment “hurts.” Such questions should be addressed open and honestly. Good practice suggests that you also record your discussion in the patient’s chart. If the patient’s condition subsequently improves (or deteriorates), you may wish to again discuss the issue with your patient.

Because some patients use the term “living will” to describe all potential advance directives, you may wish to mention to your patient that other legal documents exist that are used for different purposes. A California “Durable Power of Attorney for Health Care” allows the patient to identify one or more persons who may be entitled to make decisions about the patient’s health care in the event that the patient cannot. Also, it may place limitations upon the scope of the health care decisions that can be made. If the patient does not want life-sustaining treatment in an emergency non-hospital setting, a “Non-Hospital Do Not Resuscitate Order” is required.

Your patients are entitled to execute, use, change and/or revoke entirely any document related to their advance directives. While they may wish to discuss with you the potential kinds and need for life-sustaining treatment, your patients should also be told to contact legal counsel to advise them about the requirements necessary to effect any such document.