

End of Life Medical Decision Making

Can you be in control at the end?

By Mary E. WanderPolo, CELA

The long legal battle over the fate of Terri Schiavo highlights the importance of having written medical directives like living wills and health care proxies in place for end-of-life planning. Like more than two-thirds of Americans, Terri Schiavo had no living will when she became incapacitated. Because she lacked a living will, a written statement of her end-of-life wishes regarding medical care, her family and the courts had to rely upon her husband, Michael's assertions that Terri Schiavo would not have wanted to have her life prolonged through medical means. Although the Schiavo case made it clear that there are no guarantees and many gray areas in an age of medical technological miracles, the best way to ensure that your end-of-life wishes concerning medical treatment will be respected is to create a living will and appoint someone you trust who will have the legal authority to ensure your wishes are carried out.

New Jersey law allows competent patients to designate a person to make medical decisions for them should they lose capacity in the future. The Proxy (also known as a health care representative) "stands in" for the patient in discussions with the physician and others responsible for the patient's care after the patient has been determined to be unable to communicate with them. The health care proxy must contain clear language indicating that it is to be used for such purpose, and must be witnessed by two individuals and all signatures notarized. Many medical powers of attorney found at stationary stores, discount supply houses and bookstores do not meet those requirements.

The completed proxy and living will should be treated as any other important legal document. Copies should be given to physicians, family members and friends, but care should be taken that the original of the document is readily available.

Recent research has shown that having a living will alone does not usually effect the end of life medical interventions but that having a Health Care Proxy clearly improves treatment in end-of-life situations. However, having a written living will can make it easier for the Health Care Proxy to make life and death medical treatment decisions because he or she is not required to "guess" at what your wishes would be when you are no longer able to communicate your wishes yourself.

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