



Your Living Will: The Time is Now

By Lyn Elovson, originally featured in the Fairfield Business Journal and the Westchester Business Journal



Fans of the long-running television series “Grey’s Anatomy” may remember a riveting episode, “Sanctuary,” in which a distraught widower, grieving after his wife passes away, seeks revenge on the surgeons who treated her.

In the aftermath of his wife’s death, the widower, Gary Clark, files a lawsuit against the hospital, which he loses.

The episode raises many interesting and salient questions about living wills and other legal documents you should consider during your life so that you can control your own health care decisions through your proxy should you ever become incapacitated.

Many of the legal terms overlap and may cause confusion. The term “advance directives” refers to living wills, powers of attorney, designation of health care representative(s) and pre-designation of conservator of person and estate. The living will instructs physicians and health care providers as to the type of health care you want — and don’t want — in the event you are unable to speak for yourself.

Do not confuse your living will with your last will and testament. The difference between them is when they take effect: as the name suggests, a living will applies while you are alive, while the last will and testament has no bearing until you die, at which time it details how your estate and assets will be distributed and used. The time to draft your living will, with all its instructions regarding your health, is now.

Should your medical condition necessitate it, do you want extraordinary measures to prolong your life? Extraordinary measures are defined as medical procedures, services or treatments that prolong dying when death is inevitable. Defibrillation, certain drugs, blood transfusions, amputation and dialysis all might be considered extraordinary measures. In the TV show, Allison Clark, Gary’s wife, had cancer. She suffered a massive stroke post-operatively, lapsed into an irreversible coma and needed a ventilator to breathe. However, three years earlier, when first diagnosed with cancer, Allison had signed an advance directive that allowed a DNR order from her physicians: Do Not Resuscitate. Her living will provided that if her survival depended upon machines, she wanted to be unplugged and permitted to die.

Gary was devastated when physicians at the hospital acted in accordance with Allison's wishes and took her off life support.

Contrary to all the physicians' professional opinions, Gary insisted that his wife could recover spontaneously. The ethics committee of the hospital reviewed the case and determined that Allison's directives stood, and they took her off life support.

A living will by nature cannot account for every eventuality. That's why the designation of a health care representative is helpful. In this document, you appoint an individual you want to make medical decisions for you in the event of an emergency.

In Connecticut, this person is called your health care representative or proxy who can make decisions not covered in your living will. Had Allison appointed her husband as her health care proxy, perhaps her outcome would have been different.

The point of these legal documents is twofold: to ensure that your wishes as a patient who can no longer voice them are respected and enforced and to help alleviate some of the stress and anxiety for your family members who may be called upon to make agonizing decisions. Working through such end-of-life possibilities early, when you are still of sound mind and body, and including your family members in the discussion can help smooth the health care road should the unforeseen arise.

Gary reasoned that since Allison had signed the forms so long ago, her wishes would have changed in the interim; she originally signed the papers when she'd been given six months to live, he said, but instead she had lived three more years. She would survive this coma too, he insisted. The hospital ethics committee, bound by law to obey Allison's directive, acted accordingly.

To prevent such tragic differences in opinion, it's wise to revisit all your advance directives on a regular basis to ensure that your wishes properly account for your ever-evolving life circumstances as well as medical breakthroughs as they occur.

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