

Understanding the Living Will/Declaration to Physicians by Gary Villnow

What is a Living Will/Declaration to Physicians?

A Declaration to Physicians (also called a Living Will) is a document that a person signs to declare his or her desires regarding life-sustaining treatment. A Declaration to Physicians does not appoint an agent to make decisions, rather it declares intent as to what medical treatment should or should not be utilized in certain situations.

Generally, a Declaration to Physicians makes clear that the person signing the document does not want his or her care providers to administer treatment such as non-oral nutrition and hydration, life-sustaining procedures, and resuscitation.

When is a Declaration to Physicians Effective?

The desires set forth in a Declaration to Physicians will become effective when the patient is unable to give directions regarding life-sustaining procedures and when two physicians certify in writing that the patient has a terminal condition or is in a persistent vegetative state.

A terminal condition is an incurable condition that will cause death imminently without the application of life-sustaining procedures. A persistent vegetative state is an incurable condition that constitutes a complete and irreversible loss of cognitive functioning. A Declaration to Physicians may be revoked at any time by the person who made the declaration.

Is a physician required to honor the Declaration to Physicians?

Under the law, a patient's stated desires must be followed unless the physician believes that withdrawing life-sustaining procedures would cause the patient pain or discomfort which cannot be alleviated by pain relieving measures.

If a physician cannot comply with the Declaration to Physicians, the physician must transfer the patient to another physician who will comply.

Why is a Declaration to Physicians important?

Without a Declaration to Physicians, it may be difficult to determine a person's desires regarding life-sustaining procedures. These difficulties could result in the administration of procedures against a patient's true desires.

An example of this difficulty was demonstrated in the case concerning Terri Schiavo, a person who was diagnosed as being in a persistent vegetative state. The Schiavo case was a seven-year court battle which ultimately resulted in a finding that Terri Schiavo would not wish to continue life-sustaining procedures and that those procedures should be withdrawn.

Terri Schiavo did not have a Declaration to Physicians declaring her intent; therefore her intent had to be proved in court through testimony.

A Declaration to Physicians will provide physicians and family members with a clear statement of intent regarding life-sustaining procedures.

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