

A SUMMARY OF LIVING WILLS, AND POWERS OF ATTORNEY FOR HEALTH CARE

In Illinois, adults generally have the right to refuse any type of medical care, including being kept alive by machine or other life-sustaining treatment. However, the rights and the desires of patients who are comatose, or who otherwise lack mental competence or decision-making capacity, have historically been unclear. The Illinois legislature has recently attempted to deal with these issues by passing laws authorizing Living Wills, and Powers of Attorney for Health Care.

A. Living Wills: Living Wills are relatively simple documents, allowing you to declare your wishes about receiving artificial life-sustaining treatment in the event of an incurable terminal condition. Living Wills can state your desire to receive medication to alleviate suffering, but can limit what type of life support measures should be used in the face of impending death. Living Wills are effective only in cases involving terminal illness, where death is imminent.

B. Powers of Attorney for Health Care: With Powers of Attorney for Health Care, you can designate another person, called your “agent,” to make all types of health-care decisions for you, whether or not you are suffering from a terminal condition. Thus, they are far more flexible than Living Wills, because your agent can act in cases involving Alzheimer’s disease, and many other situations where you may lack the ability to make or communicate medical decisions, but death is not imminent. You can state general rules about your desires for medical care in a Power of Attorney for Health Care. Similar Powers of Attorney for management of your financial affairs are also available, which can avoid the necessity of going to court for appointment of a legal guardian.

C. Illinois Health Care Surrogate Act: This Statute applies only if a person has not signed a Living Will, or a Power of Attorney for Health Care. It provides that where a person is permanently unconscious, designated family members may make certain medical decisions on his behalf.

D. Conclusion: Of course, this is a very brief summary of these important legal provisions on health care treatment. You should consult your attorney if you would like more information.

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