

Living Will And Durable Power Of Attorney For Health Care - What Is The Difference?

Article by: James Wood

A Living Will is a legal document addressing only deathbed considerations; a client unilaterally declares his/her desire that life-prolonging measures be discontinued when there is no hope of ultimate recovery.

On the other hand, people use a Durable Power of Attorney for Health Care to appoint someone to make all healthcare decisions, limited by certain elections regarding deathbed issues.

The client must be at least 18 years old and mentally competent at the time he/she executes either document but incompetent to participate in the decision-making process when either is implemented. It is important to remember that both documents are only applicable if the client is incompetent.

Under the a Living Will, a client declares that if he/she is certified to have an incurable, terminal injury/illness and/or to be permanently unconscious by two examining physicians (including the client's attending physician), that artificial life-support systems be withheld or disconnected. The client may also elect to discontinue artificial nutrition and hydration (intravenous feeding) by so designating on the form. (Find more information at: legalhelper.net/living-will.aspx)

Under the Health Care Power of Attorney, the client makes three separate and independent elections authorizing the agent:

1. To direct disconnection of artificial life-support systems in the event of terminal illness;
2. To direct disconnection of artificial life-support systems in the event of irreversible coma; and
3. To direct discontinuation of artificial nutrition and hydration.

In addition, the Health Care Power of Attorney form provides a space for the client to set forth any specific medical, religious or other desires concerning his/her health care. The client may also use this section as a backup source for organ donation. (Find more information at: legalhelper.net/power-of-attorney.aspx)

Both documents are signed in front of two witnesses and a notary public or a justice of the peace who acknowledges the client's signature. The witnesses to a Living Will are sworn by the notary public/justice of the peace and indicate that the client is at least 18 years of age and signed the instrument as a free and voluntary act.

The Living Will witnesses may not be the client's spouse, attending physician, heirs-at-law or person with claims against the client's estate.

The Health Care Power of Attorney witnesses may not be the designated agent, the client, spouse or heir or person entitled to any portion of the client's estate upon death under Will, Trust or operation of law.

People are frequently confused as to why both a Living Will and Health Care Power of Attorney are necessary or appropriate. The Living Will is helpful as a backup document: In the event that the client enters an irreversible coma and the health care agents designated in the Health Care Power of Attorney are deceased or unloadable, the Living Will sets forth the desires of the client concerning his/her death-bed treatment which may be followed by attending physicians. The law provides that to the extent that a Durable Power of Attorney conflicts with a Living Will, the Health Care Power of Attorney controls. Copies of both the Durable Power of Attorney for Health Care and the Living Will are forwarded to the client's primary care physician for inclusion in medical records.

Both documents are revocable through normal revocation procedures.

Note that <http://www.LegalHelper.net> provides an easy-to-use, quick, and economical online method for creating completed legal documents for any occasions.

About The Author

James Wood is a free-lance writer on family issues; his main goal is to help people during their complicated period of life, to find a right legal solution in regards to family relationship.

Website: [LegalHelper.net](http://www.LegalHelper.net) (<http://www.legalhelper.net/power-of-attorney.aspx>).

wjames@legalhelper.net