

# JONES ELDER LAW AND ESTATE PLANNING *Update*

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## *Living Wills*

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Almost everyone I speak with has heard about the Terri Schiavo case. Though many of us would prefer to avoid it, it is difficult to disagree that the Schiavo case has increased awareness regarding the importance of living wills. It has, no doubt, increased awareness—but does it really motivate people to actually sign living wills? Are you going to sign a living will now?

A living will is an expression of your wishes regarding end-of-life decisions. If you don't want to be kept alive artificially should you become terminally ill and unconscious with no chance of recovery (as decided by two doctors), you should sign a living will making your wishes clear. For a doctor to withhold or withdraw artificial life sustaining treatment, the law says there has to be clear and convincing evidence that those are the patient's wishes. The best way to accomplish this, of course, is to put your wishes in writing by signing a living will. As we know, Terri Schiavo didn't do this. Her husband says that before Terri became ill, they had



discussed these issues and Terri had made it clear she wouldn't have wanted to be kept alive in her condition. Her parents disagreed. Terri was kept alive for 15 years.

As the average age of Americans increases, these end-of-life issues are becoming increasingly important. We can educate and empower you with the knowledge needed to make informed decisions. It is important for everyone to realize that a living will can be tailored to suit your wishes. For example, you may not want your life prolonged in any way should you become terminally ill and unconscious, while others may want all means possible used to keep them alive. Still others may wish to decline all life prolonging treatment with the exception of food and water.

Regardless of your decision, it is critical that you discuss your wishes with your family members and loved ones. While a living will is clear and convincing evidence of a person's wishes, it is



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possible that from a practical standpoint in a true end-of-life situation, the document's strength might be diminished if parents, children or spouses claim the living will does not reflect their loved one's wishes. This could also happen if close family members simply don't agree with each other on whether or not the living will reflects their loved one's wishes. You can imagine the concerns a doctor is going to have when a patient's living will says she doesn't want to be kept alive artificially but the patient's daughter is there pleading with the doctor to keep her mother alive--saying that she knows her mother would have wanted to live. You must discuss your wishes with your loved ones.

The key is to act now. You may want to begin by contacting an elder law attorney to discuss questions you have about living wills. Once you've been educated about your options, you can make the decision that's right for you. And once your decision is made and you have acted on it, you can take the next step of discussing your wishes with your family. A good elder law attorney, taking a holistic approach to serving his or her clients, can help you with this part of the process as well.



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