



Living Wills

“Giving you the Power now”

On the 15th February 2010, Western Australia caught up with other States when legislation came into effect giving adults the right to determine their future medical treatment through “Living Wills”.

A living will is a document that spells out, in advance, the medical treatments you want when your medical condition requires treatment decisions and you are unable to communicate your wishes to your health care provider. It can also identify someone of your choice that you trust to speak for you and to make decisions for you if you are unable to speak for yourself.

Living wills do not take the place of your right to make decisions affecting the delivery of health care to you as long as you are able to make and communicate those decisions.

It is important to distinguish between Living Wills, which relate to *personal, lifestyle, and treatment decisions*, and Enduring Powers of Attorney. An Enduring Power of Attorney enables you to appoint a person of your choice to make *financial decisions* on your behalf.

There are two components to a Living Will:

Advance Health Directive

This is a written statement you make directly to medical personnel that details the type of treatment you want (or don't want) if you become unable to make reasonable judgements about a treatment decision at the time treatment is required. You can use this statement to say as much or as little as you wish about the kind of healthcare you want to receive.

Enduring Power of Guardianship

This document appoints someone you trust to make personal, lifestyle and treatment decisions on your behalf if you lose the ability to make these

decisions for yourself because of an illness or injury. The person who has this power may be your spouse or partner, relative or close friend.

In his book *Ethical Wills*, Barry Baines MD says that his patients identify the three most important reasons for writing a Living Will as:

- * *“Maintaining personal control over what happens to me in serious medical situations”.*
- * *“Relieving the burden on my family from having to make difficult medical decisions”.*
- * *“Assisting health care providers in offering treatment options that are best for me in a particular situation”.*

Our research indicates that Living Wills are likely to assist Doctors in their treatment of patients where “over treatment” is sometimes an issue arising from family and medical expectations, as a Living Will provides guidance from the patient themselves.

Whilst providing you with **choices** as to your future treatment, they are also likely to assist in avoiding potential **conflict** where one family member’s preferences as to your treatment are different to another.

Keep in mind that the person you elect as your Enduring Guardian may have to fight to assert your wishes in the face of a stubborn medical establishment, and against the wishes of family members who may be driven by their own beliefs and interests, rather than yours. If you foresee the possibility of conflict in enforcing your wishes, be sure to choose someone who is strong willed and assertive.

The proximity of the person with your power of guardianship can be critical. If you have a long illness this person may be called upon to spend weeks or even months nearby, making sure medical personnel abide by your wishes for healthcare.

If you have not planned ahead, the decision making power is uncertain and passes to a family member or relative, sometimes a close friend, the attending doctor, or a court appointed guardian who is **not** the person of your choice

As with a standard last will and testament, your Living Will should be created by a lawyer or solicitor. Estate Planning DNA specialises in this area and can assist in framing your Living Will directives.