

## Living Wills in Kentucky: The Basics (Part 2)



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Monday, July 8, 2013

Last week, general information was provided regarding [Kentucky's living will form](#). Let's take a look at some more information about the document.

### ***Health care surrogates***

Kentucky's living will form includes a section for designating a "health care surrogate." A surrogate is someone who will make treatment decisions for you, in the event you cannot. A surrogate can be anyone who is trusted to keep the best interest of the individual in mind. When designating a surrogate, consider their geographical distance, as some decisions may require very swift action and also might require the decision-maker to be present. A surrogate should always be informed that they have been named as such.

A health care surrogate designation should not be confused with a durable power of attorney appointment. A durable power of attorney is legally permitted to make personal and financial decisions for an incapacitated individual, and depending on the scope of their appointment, may also be permitted to make health care decisions. Unlike a health care surrogate designation, a durable power of attorney appointment cannot be made through a form and normally requires the aid of an attorney.

### ***Directives***

An individual may designate whether he wishes to receive life-prolonging treatment,

such as through a life support machine. If life-prolonging treatment is not chosen, then the person will be permitted to die naturally, with only administration of medicine to alleviate pain.

An individual may also decide to withhold artificially provided food, water, and nutrients, such as by a feeding tube. In the event that a health care surrogate has been designated, the surrogate is only authorized to withhold nutrition and hydration in certain circumstances:

- Death is imminent
- The patient is permanently unconscious and the directive indicates that withholding is their wish
- Artificial nutrition and hydration cannot be absorbed by the body
- The burden of providing nutrition and hydration outweighs the benefit

## ***Donation***

The form also has a section in which individuals can indicate they want their organs, tissues, eyes/corneas, or any combination thereof, donated.

Once the form is filled out to an individual's specifications, a copy should be provided to their close family members and personal physician. Just like a will, a living will can always be updated to reflect changes in one's wishes. It is important that if changes are made, any earlier versions of the living will are destroyed.

No one likes to consider the "what-ifs" in life, but by planning ahead and filling out a living will, an individual can have peace of mind that their wishes will be respected and conflict amongst loved ones will be avoided.

When attending to estate planning affairs, consider taking this extra step so that your health, not just your possessions, will be cared for in the manner which you choose.

*Amanda Stubblefield and Matthew Finley, Law Clerks at McBrayer, also contributed to this article.*

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