

Health Care Proxies, Living Wills, and Little Kids

By Matthew Crider, JD
Family Wealth Protection Attorney

There is some popular confusion about the difference (or similarities) between living wills and healthcare proxies. There is a stark difference between the two that can be summed up easily. Living wills specify your wishes directly to doctors and health care providers. That's why they are often also called advance medical directives. Essentially, in a medical directive you will instruct your caretakers to either continue life support or not, depending on the circumstances.

Governed By Statute

Most state legislatures have enacted living will statutes. In addition to laying out the criteria necessary to create an enforceable living will, such statutes determine when living wills become effective. For example, a living will may become effective when, in the opinion of medical professionals, a person has less than six months to live. State law may also dictate the extent to which certain medical interventions can be used (or withheld) lawfully.

Open to Interpretation

Like all written documents, the terms of your living will are subject to interpretation. Different hospitals and doctors may come to different conclusions or have different interpretation policies in place, so in some cases living wills aren't followed to the letter. That's not to say that a patient's wishes aren't taken very seriously, because they are, and creating a living will is one of the best ways to have a say in your medical care when you're unable to articulate wishes.

This is also where healthcare proxies come into play. A healthcare proxy is simply a designation of a person to make medical decisions on your behalf in the event of your incapacity. Healthcare proxies can and often do act on behalf of patients when the wishes expressed in a living will are unclear or ambiguous. They can be a great advocate with medical professionals.

Choosing the Right Proxy

Because the role of healthcare proxy is obviously very important, you need to choose the right person. It has to be a person with clarity and resolve, an ability to understand important medical information, and a willingness to fulfill your wishes, whatever they may be. It should also be a person with whom you are very, very close. That's important because you'll want to have in-depth discussions with that person about your wishes in certain circumstances. Only then can your healthcare proxy actually be an effective agent for you, because with clarity comes understanding and a willingness to act.

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Farther Into the Rabbit Hole

Once you get a living will and health care proxy in place, it's time to ask another question: Who will make medical decisions on behalf of your minor children if you are incapacitated? It's simply not enough to only plan for yourself. You have to put in place a plan that takes the stress off of your family and puts it onto a person who has accepted responsibility (the healthcare proxy), and your plan must also include provisions for the care of your children. You have to think of everything! Well . . . not really. Keep reading.

We've Thought of Everything

You don't have to think of everything because we've already done that! It's our job to set up comprehensive estate plans for each of our unique clients. The fact is that no two situations are exactly alike, so you need a customized plan. Only then can you rest assured that the needs of your loved ones will be met. If you'd like to discuss estate planning with us, which includes the creation of living wills and health care proxies, call us today. We normally charge \$750 for a Family Wealth Planning Session™, but if you mention this article by name when you call our office, and if we have space left on our calendar, we will meet with you for free.

About Matthew Crider, J.D.

Matthew Crider formed [Crider Law PC](http://www.criderlaw.net) in 1999 so he could help individuals and business owners by providing creative solutions and be their trusted advisor and legal counselor. He serves his clients by listening closely to their goals, dreams and concerns and working with them to develop superior and comprehensive estate and asset protection plans. His estate planning practice focuses on preserving and growing wealth by providing comprehensive, highly personalized estate planning counsel to couples, families, individuals and businesses.

