

Wisconsin Right to Life

LIVING WILL

Informational Guide

The *State of Wisconsin Living Will* (also called the *Declaration to Physicians*, DPH 0060, Rev. 4/96) is a form created by the State of Wisconsin which allows you to state your preference for life-sustaining procedures and feeding tubes in the event you are in a “terminal condition” or a “persistent vegetative state.”

The *State of Wisconsin Living Will* only goes into effect when you can no longer speak for yourself. At that time, your physician will look to this document to determine the course of your health care.

The *State of Wisconsin Living Will* has serious pro-life ramifications. However, with the changes made by Wisconsin Right to Life, it can be used in a pro-life manner.

Pro-Life Concerns

The pro-life concerns regarding the *State of Wisconsin Living Will* form are as follows:

1. It permits a physician to cause your death by dehydration or starvation if you are determined to be in a “persistent vegetative state.” This medical condition is not terminal and the withholding or withdrawal of a feeding tube will cause you to die of dehydration or starvation.
2. If you are determined to be in a “terminal condition,” life sustaining procedures can be removed when your death is “imminent.” The term “imminent” is not defined and it could be interpreted to mean a time period of several months. Withholding or withdrawing life-sustaining procedures when you are not in the final stage of dying can cause you to die prematurely.
3. If you choose not to use life-sustaining procedures, this can be wrongly interpreted to mean that you do not wish to receive routine medications, such as antibiotics, and simple medical procedures for an easily treatable condition. You could unintentionally be directing your physician not to use medications and procedures that you would normally want.

Wisconsin Right to Life, Inc.

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Using the Wisconsin Right to Life LIVING WILL

These pro-life concerns can be addressed by using the attached Wisconsin Right to Life LIVING WILL, which is a modified version of the *State of Wisconsin Living Will* form. The *State of Wisconsin Living Will* was modified by Wisconsin Right to Life with pro-life additions to protect your right to life. The Wisconsin Right to Life LIVING WILL uses the familiar *State of Wisconsin Living Will* form as a basis so your physician can readily see the following pro-life additions:

- a. The feeding tube option for “persistent vegetative state” is pre-marked with an “X” in the YES box to indicate that you do want feeding tubes to be used if you are in a “persistent vegetative state”. This will protect you from death by dehydration or starvation.
- b. The term “terminal condition” is clarified by the addition of language which directs your physicians to make sure you are in the final stage of dying and that it is medically certain that your death will occur “within hours or a few days” before life-sustaining procedures or feeding tubes can be withheld or withdrawn. This will protect you from a premature death.
- c. An additional paragraph has been added to the form to specify that you do want medications and medical procedures for easily treatable acute and chronic conditions, and medications and medical procedures that are intended to relieve pain or to make you comfortable. This will protect you from a premature and painful death.

One additional pro-life concern is already adequately addressed in Wisconsin’s laws on living wills. A living will has no effect during the course of the pregnancy of a woman diagnosed as pregnant by her attending physician. In other words, feeding tubes and life-sustaining procedures cannot be withheld or withdrawn from a pregnant woman who has signed a living will.

In addition to the Wisconsin Right to Life LIVING WILL, the instruction letter furnished by the Wisconsin Division of Public Health (DPH) is attached. The DPH instruction letter gives you all the technical information you need regarding how a living will is to be signed.

If you have already signed a living will, it can be revoked (cancelled) and replaced with the Wisconsin Right to Life LIVING WILL. Revocation instructions are included in the DPH instruction letter.

Extra copies of the Wisconsin Right to Life LIVING WILL are available free of charge from Wisconsin Right to Life by calling toll free (877) 855-5007 or by downloading and printing a copy from the Wisconsin Right to Life website at <http://www.wrtl.org/LivingWill.pdf>.

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This is a modified version of the State of Wisconsin's Living Will (DPH 0060, Rev. 4/96, prepared by the DEPARTMENT OF HEALTH & FAMILY SERVICES, Division of Public Health, pursuant to s. 154.03). The State's document was modified by Wisconsin Right to Life with pro-life additions to protect your right to life.

WISCONSIN RIGHT TO LIFE LIVING WILL

PLEASE BE SURE YOU READ THE FORM CAREFULLY AND UNDERSTAND IT
BEFORE YOU COMPLETE AND SIGN IT

DECLARATION TO PHYSICIANS (WISCONSIN LIVING WILL)

I, _____, being of sound mind, voluntarily state my desire that my dying not be prolonged under the circumstances specified in this document. Under those circumstances, I direct that I be permitted to die naturally. If I am unable to give directions regarding the use of life-sustaining procedures or feeding tubes, I intend that my family and physician honor this document as the final expression of my legal right to refuse medical or surgical treatment.

1. If I have a **TERMINAL CONDITION** *, as determined by 2 physicians who have personally examined me, I do not want my dying to be artificially prolonged and I do not want life-sustaining procedures to be used. In addition, the following are my directions regarding the use of feeding tubes:

- YES, I want feeding tubes used if I have a terminal condition.
- NO, I do not want feeding tubes used if I have a terminal condition.

If you have not checked either box, feeding tubes will be used.

* **In determining whether or not I have a TERMINAL CONDITION, both of the physicians should determine that I am in the final stage of dying and that it is medically certain that my death will occur within hours or a few days.**

2. If I am in a **PERSISTENT VEGETATIVE STATE**, as determined by 2 physicians who have personally examined me, the following are my directions regarding the use of life-sustaining procedures:

- YES, I want life-sustaining procedures used if I am in a persistent vegetative state.
- NO, I do not want life-sustaining procedures used if I am in a persistent vegetative state.

If you have not checked either box, life-sustaining procedures will be used.

3. If I am in a **PERSISTENT VEGETATIVE STATE**, as determined by 2 physicians who have personally examined me, the following are my directions regarding the use of feeding tubes:

- YES, I want feeding tubes used if I am in a persistent vegetative state.
- NO, I do not want feeding tubes used if I am in a persistent vegetative state.

If you have not checked either box, feeding tubes will be used.

4. I do want medications and medical procedures for easily treatable acute and chronic conditions, and medications and medical procedures that are intended to relieve pain or to make me comfortable.

If you are interested in more information about the significant terms used in this document, see section 154.01 of the Wisconsin Statutes or the information accompanying this document.

ATTENTION: You and the 2 witnesses must sign the document at the same time.

Signed _____ **Date** _____

Address _____ **Date of Birth** _____

I believe that the person signing this document is of sound mind. I am an adult and am not related to the person signing this document by blood, marriage or adoption. I am not entitled to and do not have a claim on any portion of the person's estate and am not otherwise restricted by law from being a witness.

Witness Signature _____ **Date Signed** _____

Print Name _____

Witness Signature _____ **Date Signed** _____

Print Name _____

DIRECTIVES TO ATTENDING PHYSICIAN

1. This document authorizes the withholding or withdrawal of life-sustaining procedures or of feeding tubes when 2 physicians, one of whom is the attending physician, have personally examined and certified in writing that the patient has a terminal condition or is in a persistent vegetative state.

2. The choices in this document were made by a competent adult. Under the law, the patient's stated desires must be followed unless you believe that withholding or withdrawing life-sustaining procedures or feeding tubes would cause the patient pain or reduced comfort and that the pain or discomfort cannot be alleviated through pain relief measures. If the patient's stated desires are that life-sustaining procedures or feeding tubes be used, this directive must be followed.

3. If you feel that you cannot comply with this document, you must make a good faith attempt to transfer the patient to another physician who will comply. Refusal or failure to make a good faith attempt to do so constitutes unprofessional conduct.

4. If you know that the patient is pregnant, this document has no effect during her pregnancy.

* * * * *

The person making this living will may use the following space to record the names of those individuals and health care providers to whom he or she has given copies of this document:

**This document was modified (title and paragraphs 1, 3 and 4) by
Wisconsin Right to Life, Inc.
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To Whom It May Concern:

Enclosed is the Declaration to Physicians (Living Will) form, which you requested. This form makes it possible for adults in Wisconsin to state their preferences for life-sustaining procedures and feeding tubes in the event the person is in a terminal condition or persistent vegetative state.

Be sure to read both sides of the form carefully and understand it before you complete and sign it.

The withholding or withdrawal of any medication, life-sustaining procedure or feeding tube may not be made if the attending physician advises that doing so will cause pain or reduce comfort and the pain or discomfort cannot be alleviated through pain relief measures.

Two witnesses are required. Witnesses must be at least 18 years of age, not related to you by blood, marriage or adoption and not directly financially responsible for your health care. Witnesses may also not be persons who know they are entitled to or have a claim on any portion of your estate. A witness cannot be a health care provider who is serving you at the time the document is signed, an employee of the health care provider, other than a chaplain or a social worker, or an employee, other than a chaplain or social worker, of an inpatient health care facility in which you are a patient. Valid witnesses acting in good faith are immune from civil or criminal liability.

You should make relatives and friends aware that you have signed the document and the location where it is kept. A signed form may be kept in a safe, easily accessible place until needed. The document may but is not required to be filed for safekeeping, for a fee, with the register in probate of your county of residence. The fee for this has been set by State Statute at \$8.00.

You are responsible for notifying your attending physician of the existence of the declaration. An attending physician who is notified shall make the declaration part of your medical records. A declaration that is in its original form or is a legible photocopy or electronic facsimile copy is presumed to be valid.

If you have both a Declaration to Physicians and a Power of Attorney for Health Care, the provisions of a valid Power of Attorney for Health Care supersede any directly conflicting provisions of a valid Declaration to Physicians.

Up to four copies of the Declaration to Physicians are available free to anyone who sends a stamped, self-addressed business size envelop to: Living Will, Division of Health, P.O. Box 309, Madison, Wisconsin 53701-0309. You may obtain additional copies of the form by using a photocopy machine or other printing method to reproduce it.

If you have questions about the availability of the Declaration to Physicians (Living Will) form or obtaining larger quantities of the form, you may contact Sherry Kasper-Mohrbacher by writing to the Division of Health or by telephoning 608-266-8475.

INSTRUCTIONS FOR DECLARATION TO PHYSICIANS FORM

A. Definitions

“Declaration” means a written, witnessed document voluntarily executed by the declarant under State Statute 154.03(1), but is not limited in form or substance to that provided in State Statute 154.03(2).

“Department” means department of health and family services.

“Feeding tube” means a medical tube through which nutrition or hydration is administered into the vein, stomach, nose, mouth or other body opening of a qualified patient.

“Terminal condition” means an incurable condition caused by injury or illness that reasonable medical judgement finds would cause death imminently, so that the application of life-sustaining procedures serves only to postpone the moment of death.

“Persistent vegetative state” means a condition that reasonable medical judgement finds constitutes complete and irreversible loss of all the functions of the cerebral cortex and results in a complete, chronic and irreversible cessation of all cognitive functioning and consciousness and a complete lack of behavioral responses that indicate cognitive functioning, although autonomic functions continue.

“Qualified patient” means a declarant who has been diagnosed and certified in writing to be afflicted with a terminal condition or to be in a persistent vegetative state by 2 physicians, one of whom is the attending physician, who have personally examined the declarant.

“Attending physician means a physician licensed under State Statute Chapter 448 who has primary responsibility for the treatment and care of the patient.

“Health care professional” means a person licensed, certified or registered under State Statutes Chapters 441, 448 or 455.

“Inpatient health care facility” has the meaning provided under State Statute 50.135(1) and includes community-based residential facilities as defined in State Statute 50.01(1g).

“Life-sustaining procedure” means any medical procedure or intervention that, in the judgement of the attending physician, would serve only to prolong the dying process but not avert death when applied to a qualified patient.

“Life-sustaining procedure” includes assistance in respiration, artificial maintenance of blood pressure and heart rate, blood transfusion, kidney dialysis and other similar procedures, but does not include (a) The alleviation of pain by administering medication or by performing a medical procedure. (b) The provision of nutrition or hydration.

B. Procedures for signing Declarations

A declaration must be signed by the declarant in the presence of 2 witnesses. If the declarant is physically unable to sign a declaration, the declaration must be signed in the declarant’s name by one of the witnesses or some other person at the declarant’s express direction and in his or her presence: such a proxy signing shall either take place or be acknowledged by the declarant in the presence of 2 witnesses.

C. Effect of Declaration

The desires of a qualified patient who is competent supersede the effect of the declaration at all times. If a qualified patient is incompetent at the time of the decision to withhold or withdraw life-sustaining procedures or feeding tubes a declaration executed under this chapter is presumed to be valid.

D. Revocation of Declaration

A declaration may be revoked at any time by the declarant by any of the following methods:

- 1) By being canceled, defaced, obliterated, burned, torn or otherwise destroyed by the declarant or some person who is directed by the declarant and who acts in the presence of the declarant.
- 2) By a written revocation of the declarant expressing the intent to revoke signed and dated by the declarant.
- 3) By a verbal expression by the declarant of his or her intent to revoke the declaration, but only if the declarant or a person acting on behalf of the declarant notifies the attending physician of the revocation.
- 4) By executing a subsequent declaration.

The attending physician shall record in the declarant’s medical records the time, date and place of the revocation and time, date and place, if different, that he or she was notified of the revocation.

E. Liabilities

No physician, inpatient health care facility or health care professional acting under direction of a physician may be held criminally liable or civilly liable, or charged with unprofessional conduct of any of the following:

- 1) Participating in the withholding or withdrawal of life-sustaining procedures or feeding tubes under ch. 154. subchapter II.
- 2) Failing to act upon a revocation unless the person or facility has actual knowledge of the revocation.
- 3) Failing to comply with a declaration, except that failure by a physician to comply with a declaration of a qualified patient constitutes unprofessional conduct if the physician refuses or fails to make a good faith attempt to transfer the patient to another physician who will comply with the declaration.