UNDERSTANDING THE GEORGIA LIVING WILL

WHAT IS A LIVING WILL?
A Living Will is a document or piece of paper that is used to state your feelings about certain medical procedures, which could be used to postpone or prolong your death. In fact, some states have names their legislation the "Natural Death Act." These laws allow us to die naturally, without our death being artificially prolonged by various medical procedures.

DOES GEORGIA HAVE A LIVING WILL LAW?
Yes. Georgia is one of over 40 states that has made Living Wills legal. This law was first passed in 1984.

HOW DOES A LIVING WILL DIFFER FROM A LAST WILL AND TESTAMENT?
A Last Will and Testament is a legal document that expresses how we want our property and wealth divided after our death. Information on a Last Will and Testament is available from your local Extension County agent (ask for Bulletin #1018, entitled "Wills and Estate Planning"). Individual assistance in preparing a will can be obtained from an attorney or a bank.

A Living Will is different from a Last Will and Testament and has nothing to do with money or possessions. A Living Will deals with how we wish to be treated when we are dying.

HOW DOES A LIVING WILL WORK?
The Living Will instructs your doctor to withhold or withdraw certain medical procedures which would merely postpone or prolong death IF YOU HAVE A TERMINAL CONDITION, ARE IN A COMA, OR A PERSISTENT VEGETATIVE STATE. The law was changed in 1992 to allow us to add directions for withholding or withdrawing treatment under a coma or persistent vegetative state.

WHAT IS A TERMINAL CONDITION?  
According to the Georgia law, "terminal condition" means an incurable condition caused by disease, illness, or injury. This condition will cause death, no matter what the doctors do. A Living Will comes in handy when the doctors are not able to cure you or keep you from dying - but do want to keep you alive as long as possible.
The Georgia law states that two physicians (one of whom must be your attending physician) must personally examine you and shall certify, in writing, that:

1. there is no reasonable expectation for improvement in your condition (you will never get better), and
2. your death will occur as a result of this incurable disease, illness or injury.

**WHAT IS A COMA?**
Under the 1992 changes to Georgia's Living Will, a coma is a profound or deep state of unconsciousness where there is no reasonable expectation of regaining consciousness. This means that we are alive but not able to react or respond to life around us. The Living Will lets you state what kind of treatment you want if you are in a coma.

Like the definition of terminal condition, the law states that two physicians (one of whom must be your attending physician) must personally examine you and certify " in writing, that:

1. You have been in a deep state of unconsciousness for so long that your doctors conclude that the unconscious state will continue, and there is no reasonable expectation that you will regain consciousness (you will not get better).
2. In other words, you can now state whether you want treatment continued if your doctors decide that you will not recover from the coma.

**WHAT IS A PERSISTENT VEGETATIVE STATE?**
A persistent vegetative state is a state of severe or strong mental impairment in which your bodily functions work, but your mind is no longer working. Sometimes people say that someone in a persistent vegetative state is technically alive, but their brain is dead. Like a terminal condition or a coma, two physicians (one of whom must be your attending physician) must personally examine you and certify, in writing, that:

1. Your cognitive function is substantially impaired (your brain is not working), and
2. There is no reasonable expectation that you Will regain brain function (you will not get better).

This means that if your brain is not working, and doctors do not believe you will ever recover, you can decide in advance whether you want treatment continued.
**WHAT ARE LIFE-SUSTAINING PROCEDURES?**
Life-sustaining procedures mean any medical procedure or intervention, which serves only to prolong but not prevent the dying process. For example, you may be unable to breathe without the help of a machine (a respirator). If you had a Living Will. The doctors would know that you do not wish to be hooked up to such a machine if it would only prolong the dying process.

**WHAT ABOUT FEEDING TUBES AND PAIN KILLERS?**
You may be so ill that you cannot chew or swallow food. In such a case, your doctor might feed you through a tube that is attached to your nose or directly to your stomach. Under Georgia's law, you cannot refuse feeding tubes through a Living Will.

Georgia passed another law, called the Durable Power of Attorney for Health Care. This law allows you to name another person to make health decisions for you and gives this/person (called your agent) some idea of what you may or may not want. There is a separate publication on this law available from your Extension County agent and how to use it.

What about painkillers? Georgia law and standard medical practice assure that you will be given medicine to relieve your pain. A Living Will and Durable Power of Attorney of Health Care do not deny you the right to be kept comfortable and as free of pain as possible.

**WHAT HAPPENS IN CASES WHERE A PERSON IS COMPLETELY DEPENDENT BUT NOT TECHNICALLY DYING?**
In order to control your medical care in cases where you do not know exactly what care you may need in the future but you have someone you trust to make those decisions for you and you have explained your wishes to him or her – you should consider making a Durable Power of Attorney for Health Care. Your Extension County agent has a bulletin on this. More detailed information can be obtained from an attorney or physician.

The Durable Power of Attorney for Health Care Act was passed during the 1990 session of the Georgia legislature. It is another step in reacting to the health care dilemmas that so many of us may face.

Keep in mind that laws are subject to amendments by legislators and changes by judges. Check with a legal advisor to obtain the latest information.
**ONCE I'VE SIGNED A LIVING WILL, CAN I CHANGE MY MIND?**

Is good until we revoke it (if you no longer wish to have one). You do not have to make a new one every few years. If you do wish to revoke your Living Will, you should destroy your copy and notify other people (your family members and physicians) who also have copies.

**HOW DO I MAKE A LIVING WILL?**

The law in Georgia provides a sample. Living Will. You may write your living Will in long hand, but it is a good idea to follow the same. Basic format as found in the law.

There are rules for who can or cannot witness your Living Will. In order to protect you, the Georgia law requires that you have 2 witnesses; These witnesses must be at least 18 years of age, not related to you, not be a person who will inherit property or money from you, and not responsible for paying your medical bills. The first and second witnesses cannot be your doctor or an employee of the hospital or nursing home where you are being cared for. In other words, you could choose friends, neighbors, people with whom you work, even your minister or spiritual advisor.

You should not ask someone who will benefit or profit from your death.

You must sign the Living Will while these 2 witnesses watch you. Then they must sign the form while you watch them.

Georgia law also requires that, if you decide to make a Living Will while you are a patient in the hospital or resident of a skilled care nursing home, you must have an additional person sign the form. This third witness must be the medical director of the skilled nursing home or staff physician not participating in your care. If you are in a hospital, it must be the chief of the hospital staff or staff physician not participating in your care. Recent changes allow a hospital to designate someone else who is not involved in your care to be the third witness.

**DO I HAVE TO HAVE A LAWYER TO SIGN A LIVING WILL?**

No. An attorney is not required by the law to help you with a Living Will. However, if you do not completely understand everything, or if you have questions about it, ask an attorney. In many areas of the state, lawyers will answer any questions about Living Wills without charging a fee for their advice.
**SHOULD MY PHYSICIAN BE INVOLVED IN SIGNING A LIVING WILL?**
A doctor is not required to be involved in this process. However, it would be wise to ask your physician his or her feeling about honoring your Living Will and ask about the policy on Living Wills at the hospital where he or she practices.

Many physicians have had patients who have been in a position where they could not improve. Decisions had to be made about providing different types of care. Your doctor could explain to you how Living Wills work and why so many people are interested in them.

**HOW DO RELIGIONS FEEL ABOUT LIVING WILLS?**
Living Wills have been accepted by Baptist, Presbyterian, Catholic, Church of Christ and many other denominations. Most of them agree with this statement. Written by the United Methodist Church, “we assert the right of every person to die in dignity without efforts to prolong terminal illness merely because the technology is available to do so.”

However, not all churches or all people in those churches agree. Some vocally oppose the ideas of a Living Will.

If you have questions, you may wish to talk to your minister, priest, Rabbi, or spiritual advisor.

**SHOULD EVERYONE HAVE A LIVING WILL?**
No. You may decide that you want to live as long as possible. The idea of "life-sustaining procedures" may sound good to you. A Living Will may not fit with your religious beliefs.

The important thing is that you decide, not what you decide. If you do not make your wishes known in writing, your physician and family members will be forced to decide for you. If you don't make this choice, someone else will decide for you.

**SHOULD EVERYONE THINK ABOUT A LIVING WILL?**
Yes. It is important that you think about this. Discuss this with your family, friends, advisors, etc. and make a decision. After you have made a decision, you should communicate this decision to your physician and lawyer.

If you want to be kept alive for as long as possible, that is your right. If you do not want to have your dying prolonged, that is your right. THE IMPORTANT THING IS TO MAKE THAT DECISION AND LET THAT DECISION BE KNOWN. You should not ask your family to make that choice for you. It will be very stressful on them.
If you have not put your wishes in writing, your physician may not follow the wishes of your family. The situation could become bogged down in court, with many people arguing different viewpoints. In the meantime, you could remain in a hospital or nursing home, hooked up to machines that can not make you better—but will not let you die.

You should think about how you feel about medical treatment and whether a Living Will would fit your needs-

**DOES A DOCTOR HAVE TO HONOR OUR LIVING WILLS?**

Your doctor may refuse to honor your Living Will because it does not fit with his or her religious or spiritual beliefs, or because it conflicts with the policy of the hospital where you are being cared for. However, your doctor should help you or your family locate another doctor and/or facility that will honor your wishes.

**ONCE WE’VE MADE A LIVING WILL, WHAT SHOULD WE DO WITH IT?**

Once you have signed the living Will and your witnesses have also signed it, you should have several copies made. The original should be kept with your other important papers, like your Last Will and Testament, your Letter of Last Instructions (how you want your funeral to be) etc. These papers should be kept in a place where someone can get them quickly— if an emergency arises.

It is important that you also give copies of your Living Will to other important people, like family members, your doctors, and the people who served as witnesses. It may also be a good idea to carry something in your wallet or Pocketbook stating that you have a Living Will and give a telephone number where family members can be reached.

**CONCLUSION**

Thinking about dying is not an easy thing to do. Thinking about being kept alive against your wishes is not an easy thing to consider, either. A Living Will allows you to retain control over your medical care, even if you are no longer able to communicate. Deciding about a Living Will should help us and your family rest a little easier, knowing that you will receive the care you wish, ONLY the care you wish, or ALL the care you wish.

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**DISCLAIMER:** This publication contains general information. It is not the intention of the University of Georgia Cooperative Extension Service nor the Georgia Office of Aging to provide specific legal or medical advice. Individuals are encouraged to consult professionals to help them make an informed decision.