

# The Importance of Health Care Directives

### By Matthew Crider, JD Family Wealth Protection Attorney

Most estate planning law firms spend a considerable amount of time writing about wills, trusts, and guardianship documents, but when was the last time you read anything about healthcare directives? That will be the focus of this article, because healthcare directives (also called living wills) are integral to planning for your care, should anything ever happen that causes you to be incapable of making healthcare decisions for yourself.

A living will is a document that outlines your wishes for the kind of care and medical intervention that you want (or specifically do not want) if you become terminally ill or find yourself in need of life-support but are unable to speak or otherwise communicate, as could be the case if you fall into a coma.

#### Careful Drafting Required

A majority of states have statutory laws that specifically define when a living will must be "activated." Some states limit the type of medical procedures and interventions that can be controlled with a living will, and interpretation of your wishes is always an issue. Incorporating complex wishes and desires into a legal document is far from a perfect science, but it's incredibly important and deserves your attention and the attention of a detail-oriented professional attorney.

#### Removing Uncertainty and Guilt

Take a moment to consider your loved ones deliberating over whether you *would* choose to live or die. Imagine them thinking and talking about life support decisions. Imagine the feelings that would overcome them during those discussions and the guilt they might feel. Now, realize that such conversations need never occur. By implementing a living will, you can express your wishes in advance and keep your loved ones from ever having to feel responsible or guilty for making what is essentially a very personal choice—a choice that only you can authentically make.

#### A Healthcare Surrogate

Decisions expressed in living wills are generally taken very seriously and respected by medical professionals and the legal system. When ambiguities do exist, the chances of your wishes being followed are greatly increased if you have appointed a healthcare surrogate. A healthcare surrogate is a person with whom you have discussed your wishes. It is a person who understands you and, in some cases, a person who is authorized to act on your behalf if you are legally incapacitated.



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Healthcare surrogates are appointed via healthcare proxies (a.k.a. medical power of attorney). As is the case with living wills, the importance of properly forming your medial power of appointment cannot be overstated. Equally important is figuring out who is willing to serve as your surrogate and who you trust enough to make decisions on your behalf when you'll literally be more vulnerable than ever before. Deciding who you trust with your life and death choices could be the most important decision you ever make. And once the choice is made, it's critical that you and your surrogate have as many conversations as necessary to make your wishes absolutely clear. There is no room for uncertainty here. Your life literally hangs in the balance, and it's imperative that you realize the last decision you ever make could be the next decision you make.

When choosing a surrogate, remember that your designated decision-maker needs to be capable of three things: Understanding critical medical information about your condition and treatment, handling stress associated with difficult decisions, and respecting and honoring your wishes.

### **About Matthew Crider, J.D.**

Matthew Crider formed Crider Law PC 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.

