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Living Wills under Arkansas Law

What is a Living Will? A Living Will (also known as an Advanced Medical Directive or a Directive to Physicians) is a legal document that describes how you want to be treated in end-of-life situations. Living Wills usually tell doctors to stop treatment and withhold life support if there is no hope of recovery. A Living Will can also be used to say that you want some or all possible treatments. In a legal dispute, a Living Will becomes evidence of your wishes and intent.

Who can make a Living Will? Under Arkansas law, any person of sound mind and who is 18 years of age or older can make a declaration or statement that tells a physician or the person's family what he/she wants done in his/her medical treatment if he/she becomes terminally ill or permanently unconscious. This declaration must be in writing and signed by the individual and by two witnesses.

When Would I Need a Living Will? You need a Living Will if you become incapacitated due to injury or illness, and there is no hope for your recovery. They become effective in the event you are unable to make decisions on your medical treatment. If you remain able to communicate and make decisions, or there is hope for your recovery, a Living Will won't be implemented.

What Happens If I Do Not Have a Living Will? If you do not have a Living Will and you become incapacitated, your family and doctors will be forced to guess what you wanted. This can be very difficult, and lead to bitter disagreements and lawsuits. A Living Will relieves your family and doctors from having to make these difficult decisions. It makes it easier for them to honor your wishes.

Living Wills and a Durable Power of Attorney for Healthcare. A Durable Power of Attorney for Healthcare allows an agent to make healthcare decisions for you. When combined with a Living Will, it will enable your agent to ensure that your wishes according to the Living Will are implemented. It also allows your agent to make medical decisions in the event circumstances arise that are not addressed in the Living Will.

What Should I Do Once I Have My Living Will? Once you make a Living Will, give a copy to your doctor and make sure a copy is placed in your physician's records and hospital records. You should also tell your close family members that you made

a Living Will and where the original and copies are kept. If you make a Durable Power of Attorney for Healthcare, give the original to the person you designate and keep a copy for yourself. Make sure your doctors can contact this person.

How Do I Get a Living Will or Durable Power of Attorney for Healthcare?

The Office of the Staff Judge Advocate can answer questions about Living Wills and can assist in their preparation. We recommend execution of a Living Will along with a Last Will and Testament. Additionally, you should review or update your Living Will every year, as your thoughts on end-of-life issues may change and update the address and telephone number of the person you designate in a Durable Power of Attorney for Healthcare, if necessary.

This handout is distributed by the Arkansas Office of the Staff Judge Advocate, Office of Legal Assistance as a preventive law service. This document and other helpful information on similar personal legal affairs topics can be found on the office's website located at <https://arkansas.nationalguard.mil/Home/JAG-Legal/>

For more information on this topic or to consult with a legal assistance attorney contact the Arkansas National Guard Office of Legal Assistance at 501-212-5040 to establish eligibility and appointment times.