



## HIV/AIDS & Your Health: What is a Living Will?

If you are living with HIV/AIDS, you may be thinking about the kind of health care treatment and personal care you want in the event that you become too sick to make these decisions later on.

If you have heard the term “living will” you may be wondering what exactly it means. This fact sheet will attempt to answer some of the basic questions about what a living will is and what it can be used for.

### What is a “Living Will”?

A living will is a written document in which you write down your wishes with respect to health care treatment and personal care in the event that you become too sick to make these decisions later on.

If you have HIV, there is a chance that a time will come when you are no longer physically or mentally capable of making decisions for yourself. Living wills are therefore made when you are able to understand treatment options and the consequences of those options.

### How is a living will different from a regular will?

A regular will takes effect after you have died and indicates what you would like to happen to your *property*. A living will indicates your health care preferences and takes effect when you are alive but no longer able to understand or make decisions about health care for yourself.

### What is a living will used for?

You can use a living will to:

- Choose who you would like to look after you and make health care decisions on your behalf when you can no longer make these decisions for yourself; and
- Choose what kind of health care treatment you do or do want to receive if you become seriously or terminally ill.

## **What does a living will look like?**

### **(1) Personal Care**

You can write down who you would like to take care of you when you are sick and who can make decisions for you if you get too sick to make these decisions for yourself. You can choose one person or you can choose more than one person.

**It is a good idea for you to ask the person you are naming if they are willing to look after you. That way there will be no surprises and it is more likely that your wishes will be respected.**

You can also write down your wishes about:

- Where you want to live;
- What kinds of food you want to eat;
- What kinds of clothes you want to wear; and
- What kinds of personal grooming you prefer;

### **(2) Health Care Treatment**

You can write down what kinds of health treatment that you want/don't want in the event that you become seriously ill. The most common type of treatment dealt with in a living will is life saving treatment, meaning what kinds of measures you want/don't want the doctor to take to help you stay alive.

Life saving treatment might include:

- Cardio Pulmonary Resuscitation (CPR);
- Ventilators (breathing machines);
- Blood transfusions;
- Drugs; or
- Feeding tubes.

### **(3) Funeral Arrangements**

You can also include your wishes regarding your funeral in your living will. Sometimes people will specify who they want to be with them when they die as well.

## **Why should I make a living will?**

- A living will enables you to make your own decisions and ensures that others are aware of these decisions.
- Living wills also relieve the burden from your family and friends from having to make difficult health care decisions for you.

## **What are some of the arguments against making a living will?**

A living will is designed to maximize the personal autonomy of people living with HIV/AIDS and is designed to allow people who may get sick to control what happens to them when they do. Personal autonomy and control of this kind may be very controversial in parts of the Pacific and could be deeply offensive to your family and friends. Family and community are very important in Pacific Island countries. It may be very difficult for your family to understand that you want to make a decision about your life and your health care treatment for yourself. Your family may feel that they should be a part of that decision and in fact, you may want them to be part of your decision. You may alienate your loved ones if you make decisions that they do not agree with.

Your wishes may also contradict your family or community's religious beliefs about serious illness or death - especially if you do not want any or certain life saving measures to be taken on your behalf. Some people may view refusing to take life saving measures as a form of assisted suicide.

Finally, if your family, friends and community (including your doctor) do not agree with your wishes, the end result may be that your wishes will not be respected.

## **Should I tell my doctor about my living will?**

Yes. Your doctor can even help you make a living will by discussing the pros and cons of various choices. Discussing your wishes with your doctor will also increase the chances that your wishes will be respected.

## **Should I tell my family about my living will?**

Yes. It is more likely that your wishes will be respected if you discuss your wishes and the reasons for those wishes with your family and friends.

## **Can I change my living will?**

Yes. Living wills are effective DURING LIFE and you can modify yours whenever you want.

## **Is a living will legal?**

There is no law which makes it illegal to create a living will. However, while you may be permitted to create a living will, there is no law in the Pacific which gives it the force and effect of a legal document. This means that a living will is not enforceable in law.

In some Pacific countries, UK law with respect to a *power of attorney for personal care* may be in force. However, it is not a good idea to rely on this type of law as it is rarely, if ever, applied and may be determined to be unenforceable in a Pacific court of law.

## **What is a Power of Attorney?**

A power of attorney is a legal document which gives another person ("the attorney") the ability to make decisions on your behalf. Those decisions have the same legal authority as they would as if they were made by you personally. The most common types of powers of attorney are a power of attorney for personal care or a general power of attorney for your property. A power of attorney for personal care allows the attorney to make health care decisions on your behalf.

## **What is happening in other countries?**

Living wills are given legal force and effect in parts of the United States, Australia, Canada, Denmark, and the Netherlands.

## **If it's not a legal document, why bother?**

Just because a living will does not have legal force and effect, does not mean that it is not useful. Talking about death and illness is difficult. A living will could be a good tool for talking to your doctor, family and friends about your views on illness, death and dying and your wishes for personal care and health treatment. A living will can help you know what kinds of things to think about and talk to your family about before you become too sick to discuss important health care matters later on. If your doctor and loved ones understand what your wishes are and why, and are a part of the decision-making process, it is more likely that your wishes will be respected if you eventually do become too sick to make decisions for yourself.

If you do decide to make a living will, ensure that your family and friends have a copy.

For more information contact:



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