



# BARLAY LAW GROUP LLC

ESTATE PLANNING | REAL ESTATE | BUSINESS

GUIDING CLIENTS IN PROTECTING THEIR MOST IMPORTANT ASSETS: FAMILY, PROPERTY & BUSINESS

## 8 MISCONCEPTIONS ABOUT ADVANCED DIRECTIVE FOR HEALTH CARE (LIVING WILLS & HEALTHCARE POWERS OF ATTORNEY)

### **Misconception #1 – If I have a living will I don't need a will.**

Wrong. A living will is only for health care decisions. Unlike a will, a living will does not protect nor give away any real or personal property. It is a directive to the medical community and to your family as to what you want done for you in the event that your condition becomes terminal, or you enter into a coma or vegetative state.

### **Misconception #2 – A living will is all I need for decisions about my health care.**

Wrong. A living will on its own is not enough. You should also have a Health Care Power of Attorney that names an agent who is there to speak for you when you can't speak for yourself. There are always medical decisions that can't be specifically addressed because you can't anticipate every situation. That's one of the main reasons the State of Georgia recently created the Advance Directive for Health Care that combines both the Living Will and the Health Care Power of Attorney.

### **Misconception #3 - I can just tell the doctor what I want.**

False. While it is extremely important to advise your medical professionals about your wishes, it is not a replacement for a formal declaration of your wishes. Furthermore, the health care directives only come into effect if you cannot communicate your own wishes.

### **Misconception #4 – All an Advance Directive for Health Care means is “Pull the Plug.”**

Wrong. While its true that a lot of people use health care directives to prevent being kept alive artificially, its wrong to assume that having a health care directive is the same as pulling the plug. These directives are an expression of your wishes regarding your health care, and should reflect all that you do – and do not – want.

### **Misconception #5 - All these documents do is give away the power to make your own decisions.**

Wrong. You aren't giving away power or control to make decisions. In fact, you're accomplishing quite the opposite. You are keeping control. As long as you are able to make your own decisions, your consent must be obtained for medical treatment. When you are not able to make your own decisions, your health care directive formalizes your wishes regarding those decisions. Medical professionals cannot legally ignore your agent or written instructions.

### **Misconception #6 – If I do not have a health care directive, my family will make decisions for me anyway.**

False. If you do not have a directive, the state may designate your next of kin to make some or all health care decisions. However, problems could arise because family members may not know what your wishes are, or multiple family members, such as siblings or children, may disagree about the best course of action. In case of a family disagreement, your physician, or worse still, a court, may become the default decision maker.

### **Misconception #7 – Directives for Health Care are only for older people.**

Wrong. We usually think of death and dying as being associated with old age, but as we now know from the *Schiavo* case, that isn't true. Terry Schiavo was 26 when she went into a coma. In the case of many your people, the stakes are actually higher because you might be kept alive for decades in a condition that you would not want.

### **Misconception #8 – Only an Attorney can draft an Advance Directive for Health Care.**

Not necessarily. You may also be able to get this form from your local senior centers, hospitals, regular physician, library or even the Internet. However, most estate planning attorneys should provide this document free with your estate plan.