Living will: note to doctors: this living will is not intended as a substitute for discussion / Terrence Higgins Trust, King's College London, Centre of Medical Law and Ethics.

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# LIVING WILL

The Terrence Higgins Trust 🛭 🎔



KING'S College LONDON

NOTE TO DOCTORS: THIS LIVING WILL IS NOT INTENDED AS A SUBSTITUTE FOR DISCUSSION

### LIVING WILL EXPLANATORY NOTES

IMPORTANT: Before you complete your Living Will, please read all these notes carefully.

#### WHAT IS A LIVING WILL?

This Living Will takes effect only if you become unable to communicate your wishes about medical treatment yourself, and can therefore no longer take part in decisions about it. You can use this form to do either or both of the following:

- You can state in advance what your wishes are about medical treatment. These statements are called "advance directives".
- You can appoint someone, called a "health care proxy", to take part on your behalf in decisions about medical treatment.

This form has been designed for use by people with HIV infection or AIDS, but it will apply whatever condition you have (whether HIV-related or not).

This Living Will is about medical treatment only. You cannot use it to say what is to happen to your property after your death, or to make funeral requests. To dispose of property you need an ordinary will. If you are thinking of making an ordinary will, we recommend that you seek professional legal advice before doing so.

At present there is no law in the United Kingdom dealing specifically with Living Wills. The circumstances in which Advance Directives are legally binding are not yet clear. The legal position will not be clear until a test case in the courts has been decided. The legal status of the Health Care Proxy is also uncertain. Whatever the legal position, our aim has been to provide a Living Will form which doctors will respect, and the British Medical Association has issued a statement supporting the use of such forms.

#### DISCUSSION WITH OTHERS

A Living Will expresses important and very personal wishes. Please consider them carefully.

The form has been designed for you to complete yourself, without the assistance of a lawyer, although you can consult a lawyer if you wish. You do not have to discuss what you intend to say in your Living Will with anybody, but we strongly urge you to talk to a doctor if you feel you can. (It could be any doctor, and does not have to be your own G.P.) This is because a doctor will be able to explain what health care options are open to you. If you make any Advance Directives, discussion with a doctor will also show that you were fully aware of the decision you were taking in case a dispute about your true wishes arises later. You might also wish to discuss your intentions with other people: for example, a partner, your family or friends, or a nurse, counsellor, or religious adviser.

#### WHAT HAPPENS IF YOU CHANGE YOUR

#### MIND

The wishes stated in a Living Will are not final and irrevocable, and can be changed at any time while you remain capable of doing so. If you change your mind about anything in your Living Will, destroy it (and all copies of it). If you want to state new wishes, make a new Living Will on a new form. Make sure any doctor treating you, and those close to you, know what you have done.

#### HOW TO COMPLETE THE LIVING WILL

#### FORM

The following notes are to help you complete the form. Please do so clearly, using ink or a ball-point pen.

This Living Will form has two main sections. One is for Advance Directives. The other is for appointing a Health Care Proxy. If you want to state views about medical treatment, use the Advance Directives section. If you want to appoint someone else to take decisions about your medical treatment, use the Health Care Proxy section. You can use either section by itself, or both.

#### ADVANCE DIRECTIVES

Doctors must take patients' wishes into account, and must not give patients treatment which they do not wish to have.

You can use this part of the Living Will form to record your wishes about medical treatment, to make sure that doctors know what they are if you become unable to express them yourself.

If you do want to use this part of the form, you do not have to complete all the sections. Complete as much, or as little, of it as you please. If you do not wish to make any Advance Directives at all, go straight to the part of the form headed "Health Care Proxy".

#### I - Medical Treatment in General

This section lists three possible health conditions, called Case 1, Case 2 and Case 3. For each one you can say what you wish to happen, by ticking the "A" or the "B" box. If you do not want to express a preference between "A" and "B", leave both boxes blank. If neither box "A" nor box "B" expresses your true wishes, you will need to discuss your actual wishes with your doctor. Treat each case separately. You may not wish the same thing in all three cases.

In Case 1 (Physical Illness) you can say what your wishes are if you develop an infection or other illness which cannot be cured and which has become so serious that your life is nearly at an end because of it. Case 2 (Permanent Mental Impairment) and Case 3 (Permanent Unconsciousness) cover two situations where your mental faculties are damaged. Case 2 applies where you have a severe mental condition (like dementia) and also an illness, even if the illness could be cured. Case 3 is for cases of permanent and irreversible coma.

It is important to realise that choosing box "A" does not ensure that you will receive any particular treatment. The treatment you receive will depend on what your doctor considers reasonable in the circumstances.

There are different opinions about whether artificial feeding and drinking (feeding and drinking by tube) count as "medical treatment". Consequently, if you have views about these, you should make sure your doctor understands them, or write down your wishes in the section for particular treatments or investigations.

#### II - Particular Treatments or Investigations

If you have strong views about particular types of medical treatment or investigation, you can record them here. For example, you might have views about ventilation (artificial breathing), or the administration of food by tube. Please do not complete this section without first discussing it with a doctor, as it is important that anything you write should be easily understood by a doctor who is treating you.

If this form does not give you the opportunity to state your views about something, please make sure you explain them to your doctor.

#### III - Presence of Friend or Relative

If there is someone you would like to be with you before you die (even if it means temporarily disregarding a choice of box "B" in any of Cases 1, 2 or 3, and any wishes you have stated about particular treatments or investigations) you can write his or her name, address and telephone number in this section. Please note that if you do this, the wishes you have stated earlier in the form will be temporarily overridden. Please also note that it may not be possible to contact the person you name, or for him or her to reach you in time.

If the wishes you have stated in section II — Particular Treatments or Investigations are so important to you that you do not want them disregarded in any circumstances, even temporarily, you should tick the box. This will mean that you wish a choice of box "B" in section I — Medical Treatment in General to be temporarily disregarded in this situation, but not your wishes about particular treatments or investigations.

#### HEALTH CARE PROXY

You can complete this part of the form whether or not you have made any Advance Directives earlier in the form.

There may be somebody (for example, a partner, family member, or friend) whom you would like to take part in medical decisions on your behalf if you have become unable to do so. If so, write his or her name, address and telephone number here. This person is known as a "Health Care Proxy".

Your Health Care Proxy will be taking on an important responsibility. Please discuss this with the person you have in mind. You need to make sure that he or she is prepared to take on this role, knows your wishes about medical treatment, and is prepared to express them on your behalf. If your proxy does not share your views, it may be difficult for him or her to represent you properly.

Please note that if it is not possible to contact your proxy, a decision may have to be made without his or her involvement.

If you have to go into hospital, you may be asked to say who your "next-of-kin" is. The term "next-of-kin" has no defined legal meaning and you can name any person.

#### YOUR SIGNATURE AND WITNESS

When you have completed the form, you must date and sign it in the presence of an independent witness. The witness does not need to read your Living Will. The witness should watch you sign and should then add his or her signature, and clearly write his or her name and address in the spaces provided.

The witness should be aged 18 or over, and should not be any of the following people:

- your husband, wife or partner
- a relative
- anyone who stands to gain anything by your death, for example by inheriting anything from you
- anyone you have appointed as a Health Care Proxy, or his or her husband, wife or partner.

#### DISCUSSION WITH A DOCTOR

Although we recommend that you discuss your wishes with a doctor before you make your Living Will, you need not do so. However, you might decide to do so later, after you have signed it. If you do discuss your Living Will with a doctor at any stage, please write the doctor's name, address and telephone number in the space provided. A different doctor caring for you later may want to confirm your wishes by contacting the doctor you discussed your Living Will with.

#### WHAT TO DO WITH YOUR COMPLETED

#### LIVING WILL

Make sure those close to you (including your Health Care Proxy, if you have appointed one) know you have made a Living Will and where to find it.

If you have to go into hospital, make sure your doctor there knows you have a Living Will and what it says. Ask for a copy to be added to your hospital notes and to the notes of any other doctor who is treating you.



This is an important document. Before completing it, please read the accompanying Explanatory Notes. We recommend that you discuss your Living Will with a doctor, but you do not have to.

#### YOUR NAME AND ADDRESS

of [address]	
make this LIVING WILI	to state my wishes in case I become unable to communicate, and cannot take part
decisions about my me	edical care.
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#### I — MEDICAL TREATMENT IN GENERAL

Three possible health conditions are described below.

For each of the three, either choose "A" or "B" by ticking the appropriate box, or leave both boxes blank if you have no preference. The choice between "A" and "B" is exactly the same in each case.

Treat each case separately. You do not have to make the same choice for each one.

I DECLARE that my wishes concerning medical treatment are as follows:	
CASE 1 — Physical Illness	
If—	
<ul> <li>I have a physical illness from which there is no likelihood of recovery, and</li> <li>it is so serious that my life is nearing its end:</li> </ul>	,
A. I wish to be kept alive for as long as reasonably possible using whatever forms of medical treatment are available.	
B. I do not wish to be kept alive by medical treatment. I wish medical treatment to be limited to keeping me comfortable and free from pain.	
CASE 2 — Permanent Mental Impairment	
If —  ■ my mental functions become permanently impaired with no likelihood of improvement, and  ■ the impairment is so severe that I do not understand what is happening to me, and  ■ I have a physical illness:	
A. I wish to be kept alive for as long as reasonably possible using whatever forms of medical treatment are available.	
B. I do not wish to be kept alive by medical treatment. I wish medical treatment to be limited to keeping me comfortable and free from pain.	
CASE 3 — Permanent Unconsciousness	
If — ■ I become permanently unconscious with no likelihood of regaining consciousness:	
A. I wish to be kept alive for as long as reasonably possible using whatever forms of medical treatment are available.	
B. I do not wish to be kept alive by medical treatment. I wish medical treatment to be limited to keeping me comfortable and free from pain.	



This is an important document. Before completing it, please read the accompanying Explanatory Notes. We recommend that you discuss your Living Will with a doctor, but you do not have to.

#### YOUR NAME AND ADDRESS

of [address]	
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make this LIVING WII decisions about my m	L to state my wishes in case I become unable to communicate, and cannot take part in ledical care.
consult a doctor about th	nis Living Will (whether before or after you fill it in), please complete this section.
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I have discussed this	nis Living Will (whether before or after you fill it in), please complete this section.  Living Will with the following doctor—
I have discussed this Name of doctor:	Living Will with the following doctor—
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I have discussed this Name of doctor:	Living Will with the following doctor—

## LIVING WILL HEALTH CARE PROXY

I APPOINT the following person	on— Name:	
Address:		
Telephone numbers: (day)		(evening)
to take part in decisions about unable to do so. I wish him o caring for me to respect the vi	r her to be consu	on my behalf, and to represent my views about them, if I lited about and involved in those decisions and I wish t presses on my behalf.
THIS DOCUMENT REMAI	NS EFFECTIVE UN	NTIL I MAKE CLEAR THAT MY WISHES HAVE CHANGED.
		GNATURES
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The witness must sign here after you have signed, and should then print his or her name and address in the spaces provided. Please consult the notes to this form	IN THE PRES	
The witness must sign here after you have signed, and should then print his or her name and address in the spaces provided. Please	IN THE PRES	

### This Living Will form was developed by The Terrence Higgins Trust and the Centre of Medical Law and Ethics, King's College, London Financial assistance from the Nuffield Foundation towards the production of this form is gratefully acknowledged



is a registered charity which provides practical support, help, counselling and advice for anyone with or concerned about AIDS and HIV infection.

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engages in teaching and research in all aspects of medical law, medical ethics and related public policy.

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