A Time to Live, A Time to Die: Advance Directives and Living Wills

C. Ben Mitchell and Michael K. Whitehead

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What is a Living Will?

A "living will" is a type of health care document known as an "Advance Medical Directive." An advance directive is a generic term for a form or document which expresses your preferences in the event you are physically and mentally unable to make medical care decisions for yourself. That is, an Advance Medical Directive is a method of letting others know your wishes about treatment if you are unable to communicate those wishes at the time. There are several varieties of medical directives, including living wills, durable powers of attorney for health care, values inventories, etc.

A "living will" is a specific kind of directive which is "restricted to rejecting life-sustaining medical interventions, usually, although not exclusively, when a person is terminally ill."[1] Living wills have been in existence for over 20 years. Nursing homes and senior citizens' centers have been supervising living will signings for several years. Developing medical technologies, publicity about euthanasia, and doctor-assisted suicide, and recent legislation have focused greater attention on living wills.

On December 1, 1991, the Patient Self-Determination Act became federal law. This law requires personnel at all hospitals, nursing homes, and hospices receiving Medicare and Medicaid reimbursement to advise patients upon admission of their right to accept or refuse medical treatments and to execute an Advance Medical Directive. These medical personnel must (1) document whether patients have directives, (2) implement medical directive policies and (3) educate their staffs and communities about medical directives.[2]

Between 4% and 17.5% of adults have completed an advance directive. In a 1988 public opinion survey conducted by the American Medical Association, 56% of adults reported that they had discussed their treatment preferences with family members. Only 15%, however, had completed a living will. ... In one study of nursing home residents, 90% had heard of a living will, but only 18% had signed one; 30% had heard of a durable power of attorney, but only 15% had appointed a decision maker.[3]

While a living will may sound harmless and even desirable, there is the very real potential for future abuses. Before filling out a living will, be certain that you fully understand how much power and responsibility you are giving an attending physician.

Why Might I Want a Living Will?

A living will is, in fact, a "dying declaration," stating the circumstances under which a person wishes to be permitted to die without certain medical treatments.[4] There are several common reasons individuals give for desiring a living will. Most persons find it reassuring to know they will have some control of their treatment, through a living will, even when they become incompetent. Some persons fear too much medical treatment will be forced upon them when they are near death. They don't want to have their dying prolonged by machines and fear leaving their families with exorbitant medical bills. Some individuals find that specific planning eases their anxiety about death. Finally, some want to spare their loved ones from these difficult decisions.

What Biblical Principles Apply to Living Wills?

No matter what the issue or technology, the Christian must always ask the question, "What does the Lord say? Are there precepts, principles, or examples in the Bible which help us understand our Heavenly Father's will on the matter?" While it is true that living wills are not mentioned in the Bible, it is not therefore true that the Bible has nothing to say about them. The Bible has much to say about life and death.

First, the Scripture says that human beings are made in the image of God, and he has invested our lives with sacred value (Gen. 1:26-27). Scholars disagree over the precise ingredients that make up the image of God in humanity, but at least one thing is clear: human beings have a value and a unique place above all other forms of life on earth. "To sanctify" means to "set apart" as special. Since God has set human life apart above all other life, we refer to the sanctity of life. The psalmist declares that we are "made a little lower than the angels" and are "crowned ... with glory and honor" (Ps. 8:5). The sanctity or sacredness of human life is a biblical doctrine that must be considered in any application of the Bible to medicine or science.

Second, the Bible teaches that God himself is the giver and taker of human life. He is sovereign over human life. As Paul puts it in Romans 14:7-8: "For none of us liveth to himself, and no man dieth to himself. For whether we live, we live unto the Lord; and whether we die, we die unto the Lord: whether we live therefore, or die, we are the Lord's." The Lord himself is the giver of life and the one who takes life (Job 1:21). Whatever we decide about end-of-life issues, we must understand that we do not possess ultimate authority over life and death.

Third, the Bible everywhere condemns unjust killing. In fact, God clearly declares capital punishment for anyone, who with premeditation, unjustly kills another person (Gen. 9:6).5 There is no warrant in Scripture for active euthanasia or the intentional killing of another person because his or her condition appears terminal.

Fourth, Christians have the assurance of eternal life and the promise of the resurrection and must not be enslaved by the fear of death (Heb. 2:14-15). We have been set free from the fear of death through Christ, who conquered death for us. One of the most threatening things about death is that we have so little personal experience of it. But we do have the testimony of Scripture. Paul says, "to be absent from the body is to be present with the Lord." (2 Cor. 5:8), and Jesus tells us that, for the Christian, the life to come is blessed, glorious, and will consummate with a resurrection body (John 14:1-4. See also Paul's powerful description of the resurrection in 1 Cor. 15:12-58).

Fifth, while suicide is not "the unpardonable sin," the Bible nowhere condones or speaks approvingly of suicide (1 Chr. 10:4,13; Matt. 27:3-5; 2 Sam. 17:23; 1 Kings 16:18-19). Whatever you decide about end-of-life issues, suicide or active self-killing is not a biblical option.

As we continue to consider medical directives, it is crucial that we keep these biblical principles in mind. They will be our guide in making decisions about the end of life.

As we have already seen, there are several reasons people support the use of living wills. Doctors, other care givers and family members want to know the wishes of their patient and loved one when the time of death is near. But make no mistake about it, some persons are advocating living wills as one step on the way to active euthanasia or doctor-assisted suicide.

What Are Some of the Problems with Living Wills?

1. The standard living will documents refer only to the termination of treatment.

Most living wills only allow you to designate that you want certain medical treatments withheld or withdrawn, and "that [you] be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide [you] with comfortable care or to alleviate pain."[6] Some standard forms only allow you to say whether or not you want nutrition and fluids and whether or not you wish to donate your organs for transplantation.

The desire to donate your organs at death is a very personal decision and one that you should make freely and without coercion. And, the decision to discontinue food and water is a very complex and critical issue in medicine. First, the provision of food and water is the most basic of care and cannot be characterized as an "extraordinary measure." Second, to cause a person to starve to death intentionally is unjust active killing, which is prohibited in the Bible.[7] Third, euthanasia contradicts the role of the physician as healer.[8] The Christian Medical and Dental Society has declared,

> "...we believe that physicians, other health professionals, and health care facilities should initiate and continue nutritional support and hydration when their patients cannot feed themselves. We are concerned that demented, severely retarded, and comatose individuals are increasingly viewed as 'useless mouths' (we reject this dehumanizing phrase). Rather than encouraging physicians to withhold or withdraw such patients' food and water, we encourage physicians to respond to God's call for improved physical, social, financial, and spiritual support of all vulnerable human beings."[10]

Furthermore, the Christian Life Commission has gone on record as officially opposing "any designation of food and/or water as 'extraordinary' medical care for some patients."[11] An appropriate Advance Medical Directive should at least allow you both to specify the medical treatments you want maintained and the ones you might want discontinued. This leads to the second difficulty with the standard living will document.

2. Living wills may not be specific enough.

Even the best of the approved living wills do not allow for sufficient options or details regarding treatment. For instance, the standard living will document does not allow you to state under what circumstances you do or do not want antibiotic therapy.

"[A patienti might desire penicillin for a painful skin infection but not a relatively toxic antibiotic such as amphotericin B for a probably fatal systemic fungal infection. Or, the patient may not want an antibiotic for a virulent pneumonia that will lead to rapid death but would prefer an antibiotic for an indolent pneumonia that is not expected to result in death but is causing an uncomfortable cough and chest pain."[12]

Living wills do not allow the kind of specificity that most patient's care will demand even in the terminal stage of their illness.

3. Living wills are vague.

Phrases like "life-sustaining procedures," "treatments that prolong the process of dying," and "there is no reasonable expectation of recovery from extreme physical or mental inability" are very common in living will forms. Other phrases and words like "imminent death" and "artificially prolong the dying process are highly problematic and impossible to define with precision. Their meaning and application will differ from case to case and will probably differ even over the course of one patient's illness.

Note that the person(s) who will interpret these terms and make decisions for the patient is the physician (or two physicians in some states) and not necessarily the patient's family. Because so much power - the power of life and death - is given to physicians through living will documents, and because it is impossible precisely to define some terms contained in living wills, alternative medical directives may be preferable.

4. A physician and patient are in a covenant relationship which demands consultation and negotiation. The physician promises to provide certain treatments under certain conditions, and the patient promises to comply under certain conditions. During the course of a "normal" illness, the covenant is revised as the patient s condition changes. For instance, a responsible person does not say, "Okay, doc, do whatever you want to do." Rather, the doctor may say, "Here are the treatment options. I think this is the best and recommend it. Are you willing to comply with the therapy?" The patient then may either comply, negotiate

or refuse treatment.

Living wills make a nominal effort at honoring such a covenant, but are often too rigid. Living wills usually do not allow for negotiation and revision of treatment decisions. That is not to say that living wills cannot be revised. But they can be revised only as long as you are conscious and competent. If you become unconscious or are in a persistent vegetative state, negotiation becomes impossible. Living wills are not the most flexible means of carrying out your wishes and respecting Christian values in the event that you become incompetent or unconscious.

What Are the Alternatives to a Living Will?

1. Talk with your family about your values and wishes. Though the law is being tested at this point, it is still the case that most physicians will consult with and seek to honor the wishes of a patient's next of kin regarding medical treatment. At least one other person in your family (preferably several) should know what you think about life and death and what you want done or not done if you are near death.

2. Execute a Durable Power of Attorney for Health Care.[13] This medical directive enables you to name a trusted relative or friend to make your medical decisions when you cannot do so for yourself. This includes your right to refuse treatment you would not want. The Durable Power of Attorney for Health Care allows you to designate someone as your "attorney in fact," and empowers him or her to make health care decisions for you. Your "attorney in fact" does not have to be an attorney or doctor. He or she may be a spouse, relative, friend, neighbor, or fellow church member. You should choose someone (1) who knows you well and shares your Christian values, (2) with whom you have discussed your wishes and (3) who is willing and able to serve as a decision-maker in what could be a very stressful time. Unless you otherwise specify, the document may also give your attorney in fact the power after you die to: (1) authorize an autopsy, (2) donate your body or body parts for transplant or scientific purposes and (3) authorize disposition of your body for burial (which may involve cremation, unless you specify otherwise).[14]

Your local hospital administrator or attorney should be able to secure a Durable Power of Attorney for Health Care for you to review and explain it to you. If there is anything you don't understand in the document, you should ask for the assistance of a competent attorney.

3. If you are uncomfortable placing life-and-death decision-making on the shoulders of a loved one, or if you have no one who may serve as your attorney in fact, you may wish to sign a "Will to Live." The Will to Live differs from standard living wills in its strong presumption in favor of life. That is, the Will to Live instructs your physician(s) to do what is necessary to preserve your life "without discrimination based on (your) age or physical or mental disability or the "quality" of (your) life" and rejects "any action or omission that is intended to cause or hasten death."[15] Very simply, the Will to Live is a pro-life anti-euthanasia alternative to a living will.

The Will to Live designates food and water as basic necessities and allows you to specify treatments you would want withheld or withdrawn under certain circumstances. The document also defines "imminent death" as when "a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved, would judge that I will live only a week or less even if lifesaving treatment or care is provided to me

4. Talk to your physician and have the Durable Power of Attorney for Health Care or Will to Live added to your medical records. The document is useless unless your family and physician(s) know it exists, and unless the doctors possess a legal copy of it. You might also talk to your pastor and give him a copy of your Durable Power of Attorney for Health Care or Will to Live.

5. Take a legal copy of your Durable Power of Attorney for Health Care or Will to Live with you should you have to enter the hospital. The hospital personnel are required by law to ask you if you have a medical directive, and it would be wise to provide them with yours at that time, rather than completing whatever

standard form they may offer. You are not required to have an advance directive.

6. Remember, like the living will, the Durable Power of Attorney for Health Care does not become effective unless you become unable to make decisions for yourself. The Durable Power of Attorney for Health Care says, "To ensure that decisions about my medical care are made consistent with these wishes and my personal values, I appoint the following person my attorney in fact to make health care decisions for me whenever I am unable to do so."[16] Likewise, the Will to Live becomes effective only when you are incompetent and your death is imminent.

Endnotes

1. Ezekiel J. Emanuel and Linda L. Emanuel, "Living Wills: Past, Present, and Future," Journal of Clinical Ethics 1 (Spring, 1990), p. 9.

2. John LaPuma, David Orentlicher, and Robert J. Moss, "Advance Directives on Admission: Clinical Implications and Analysis of the Patient Self-Determination Act of 1990," Journal of the American Medical Association, 266 (July 17, 1991), p. 402.

3. Ibid.

4. Michael K. Whitehead, "Whitehead: Living wills mean danger ahead," Light (January-March, 1991), p. 9. See also, Nigel M. De S. Cameron, "Living Wills and the Will to Live," Christianity Today (April 6, 1992), pp. 22-24, and Sharon S. Mahone, "Living Wills: Down the Slippery Sloper' Journal of Christian Nursing, pp. 4-9.

5. Capital Punishment, Nashville: The Christian Life Commission. See also Wayne House and John Howard Yoder, The Death Penalty Debate (Dallas: Word), 1991.

6. Tennessee Living Will, 1991.

7. For a more complete treatment of euthasia and the withholding and withdrawal of treatment, see Franklin E. Payne, Jr., Biblical/Medical Ethics: The Christian and the Practice of Medicine (Milford, Mich: Mott Media, 1985); John Jefferson Davis, Evangelical Ethics: Issues Facing the Church Today (Phillipsburg, N.J.: Presbyterian and Reformed Publishing Company, 1985); and Norman L. Geisler, Christian Ethics, Options and Issues, (Grand Rapids: Baker Book House, 1989).

8. See the excellent treatment of this theme in Nigel M. de S. Cameron, The New Medicine: Life and Death After Hippocrates (Wheaton, Ill.: Crossway Books, 1991).

9. Duncan Vere, Voluntary Euthanasia - Is There an Alternative? (London: Christian Medical Fellowship Publications, 1971), p. 50.

10. Christian Medical and Dental Society, Medical Ethics Commission Statement, "The Withholding or Withdrawing of Nutrition and Hydration," approved by the House of Delegates, May 3, 1990, Parentheses theirs.

11. Christian Life Commission of the Southern Baptist Convention, Annual Minutes, September 14, 1988, p. 44.

12. Allan S. Brett, MD, "Limitations of Listing Specific Medical Interventions in Advance Directives," Journal of the American Medical Association, 266 (August 14, 1991), p. 826.

13. It is important to distinguish the Durable Power of Attorney for Health Care from other durable powers of attorney. The DPAHC has nothing to do with your finances or estate. It is limited to power over your medical care alone. A durable power of attorney may be drawn up to cover both financial and medical matters in some states.

14. Durable Power of Attorney for Health Care, Legal Services of Middle Tennessee, 6/91, p. 1.

15. The Will to Live, may be obtained by sending a self-addressed, stamped envelope to: Will to Live Project, Suite 500, 419 Seventh St., NW, Washington, DC 20004.

16. Durable Power of Attorney for Health Care, p.1.

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