

THE SKETCHLEY LAW FIRM, P.A.

Providing Compassionate Support & Guidance Through Elder Law & Guardianship

ADVANCE DIRECTIVES

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A new year is a good time to review and update advance directives or create and sign new ones. Florida law recognizes the following advance directives:

Living Will

A Living Will is a legal document allowing individuals to specify the types of medical treatment they wish to receive or refuse when incapable of making medical decisions for themselves at the end of their lives. Although a Living Will is primarily used to *refuse* life-prolonging procedures, it can *request* medical treatment and the use of life-prolonging procedures. A Living Will can also be drafted to accommodate specific religious, moral and ethical preferences.

A Living Will must be signed by the individual and two witnesses. One of those witnesses cannot be a blood relative or a spouse.

Designation of a Health Care Surrogate

A Health Care Surrogate is the person an individual chooses to make medical decisions when he/she is unable to do so. The designation must be in writing and witnessed by two witnesses, one of which must not be a blood relative or a spouse. The Health Care Surrogate(s) also cannot be a witness to the designation.

It is important to note that Florida allows the designation of one or more alternate Health Care Surrogates, in case once surrogate is unable or unwilling to make decisions.

In the Absence of Written

Advance Directives

When an individual has no written advance directive(s), Florida law provides for other decision-makers.

Health Care Proxy

If an individual fails to designate a Health Care Surrogate, the law provides for the appointment of a Health Care Proxy, who will make health care decisions, including end-of-life-care decisions. Florida law specifically lists who can serve, under what circumstances and the order of preference, which includes a guardian, spouse, adult child, parent, sibling, etc.

Medical Decisions

When an individual fails to execute a Living Will, Florida law allows the Health Care Proxy or Surrogate to make decisions based on what the individual would have decided if the individual were competent. Or, if wishes cannot be determined, then the decision is to be based on the individual's "best interests."

Out of State Advanced Directives

Florida law recognizes out-of-state advance directives. However, it is recommended that individuals review their advance directives with a Florida attorney.

If you would like more information or to schedule one of our attorneys to speak to your group or organization about this topic, please contact Tracy Powell at (850) 894-0152.

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