

Update: 29 June 2007 “Living Wills” – Lessons from the Schiavo case



Fleming Muntz
Solicitors



Summary

Any individual can sign an “Advance Care Directive” or “Living Will” to record their personal wishes for medical treatment at the end of life. Although not a binding legal document, it may give guidance and comfort to others.

The Schiavo case

“Terri” Schiavo suffered from brain damage and was dependent on a feeding tube for life support. After eight years in a vegetative state, her husband Michael petitioned the Court to remove her feeding tube. Terri’s parents opposed this action and Court proceedings went on for a further seven years. In 2005, a Court ordered the feeding tube be removed. Terri’s death highlighted the use of Advance Care Directives and the need to give legal power to others to deal with health care.

Is it legal?

A “Living Will” in conventional form records the wishes of an individual but does not in itself bind family, or hospital or medical authorities. It sets out specific directions as to the course of treatment that is to be given (or not given) in certain circumstances, usually in situations of terminal illness (as a person reaches the end of their natural life).

Who benefits?

Most of us want to die with dignity and without pain, when the end of our life is imminent.

The natural reaction of family members is to preserve life, in the absence of guidance as to the wishes of the ill person.

The careful recording of the values, wishes and expectations of an individual can serve as a record of those wishes.

The legal backup

Individuals may also appoint a “medical agent” or “enduring guardian” as a legally authorised representative for medical or health care matters.

Such a legal appointment, combined with a “Living Will”, gives reassurance to a person that their end of life care will be handled as they want.

How can Fleming Muntz help?

The use of a “Living Will” or the appointment of a “medical agent” or “enduring guardian” needs careful thought.

Fleming Muntz is experienced in all aspects of Estate Planning – including “Living Wills” – and can assist with specialist advice.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

We resent unwanted email as much as anyone – if you would prefer not to receive any further updates, please telephone us on (02) 6021 2222 or email to fmlaw@flemingmuntz.com.au.

For more information, please contact:



Paul Muntz
Dip Law (SAB)
Accredited Specialist Business Law
Principal
Telephone: (02) 6021 2222
Email: prm@flemingmuntz.com.au

**Solicitors for New South Wales
and Victoria**

568 Kiewa Street
Albury New South Wales
Australia

PO Box 910
Albury NSW 2640

fmlaw@flemingmuntz.com.au
www.flemingmuntz.com.au

Facsimile (02) 6041 1804
Telephone (02) 6021 2222

