

## Know the Difference Between a Living Will and DNR

There seems to be some confusion as to the difference between a “Do Not Resuscitate” Order (DNR) and a Living Will. Many of my clients think that a DNR will prevent the insertion of a feeding tube or that a Living Will prevents the Emergency Medical Technicians (EMT) from using the “paddles”. These assumptions are wrong!

A DNR is a document that specifies that the patient does not want to be resuscitated. The patient and the patient’s physician must sign a DNR. Thus, you can obtain a DNR from your physician’s office. The original must be presented to the EMTs in order to stop them from resuscitating the patient. A DNR covers the situation where the patient is dead and stops the EMTs from reviving the patient. Think defibrillator “paddles”.

A Living Will is a legal document wherein the patient designates if they want life support continued if they are incapacitated and in a “terminal condition”, an “end stage condition”, or in a “persistent vegetative state”. The patient also indicates whether they want the artificial administration of food and water (feeding tube). The Living Will covers the situation where the patient is alive but only with the assistance of artificial means. In other words, the Living Will indicates whether the patient wants the medical providers to “pull” the proverbial “plug”. Think ventilator and feeding tube.

Unlike a DNR, the patient and two witnesses must sign a Living Will. At least one of the witnesses cannot be a relative. You can obtain a Living Will from your physician’s office, from the hospital or from your attorney. It is interesting to note that the guardian of an incapacitated individual can signed a DNR on behalf of their ward but cannot sign a Living Will.

Another question that I get quite often is whether a person designated as a health care surrogate must follow the patient’s Living Will or DNR. The short answer is “yes”. A health care surrogate or even a guardian is bound by what is known as “substituted judgment”. Meaning if they know the patient’s wishes, they must follow them. Obviously since a DNR and a Living Will are statements of the patient’s wishes, the health care surrogate or guardian must follow those instructions.

Finally, despite all the attention that the Terry Schaivo case mustered, less than 25% of Americans have a Living Will.