

# Thinking the unthinkable

A living will has nothing to do with your assets but could save a lot of grief

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Imagine yourself on your deathbed, shut out from the outside world, connected to intravenous lines and other life-sustaining systems. You are unconscious or in a vegetative state. Or worse, you are in pain but can't convey this to anyone but yourself.

Certainly, that's not what you hope for yourself in the future. But what if one day this actually happened to you? Would you prefer to be forever tube-fed and indefinitely dependent on life-support systems? Or would you rather let nature take its course?

The decisions are painful to contemplate. Your doctors may have one opinion, your family may have other views. The philosophical and ethical considerations are daunting. Where does this leave you, the patient, especially if it's deemed that your mental state makes you no longer fit to make choices?

This is where living wills come in.

A living will is unlike a regular will. It has nothing to do with how one wants his or her property divided or who should receive what.

A living will, basically, is a document expressing a person's desire or decision about medical treatment in case he or she becomes unable to communicate his or her wishes as a result of a terminal illness, unconsciousness or coma or an unstable state of mind. It can be a health-care directive that indicates what treatments one wishes to have or not have and how, including artificial life support and other advanced medical techniques, when one has become unable to communicate to a physician or anyone else.

According to Thawat Damsa-ard, a partner with the international law firm Tilleke & Gibbins, unlike in many developed countries, there are no laws related to living wills in Thailand. Therefore, there are no fixed forms or legally binding requirements. Nevertheless, anyone has a right to have and prepare one.

Rising hospital fees that can run into millions of baht are among the key concerns for people who have considered living wills, he explains.

Consider that room rates at a mid-range private hospital can cost 3,000 to 5,000 baht a night, and more at the top-ranked institutions. Treatment and surgery bills can also run into six or seven figures and a good insurance plan will only go so far. One man whose father underwent heart surgery at a top hospital said his father almost had another heart attack after seeing the hospital bills that totalled almost two million baht.

There are other cases in which families have gone deeply into debt caring for loved ones who have languished for months or even years in hospitals. A living will prepared while the patient still had all her faculties might have helped save everyone a lot of pain.

"Sometimes, you have to choose whether to live unhappily and painfully or die gracefully," says Mr Thawat.

In countries such as the United States, where living wills have become widely available, the directions can be highly specific and thoroughly documented.



## Getting it down in writing

A living will can be made orally or in writing. However, a written document will be easier and clearer to follow and your family, relatives or friends can always use it as proof of your intentions when dealing with medical personnel or other professionals.

◆ State your advance wishes clearly: what treatments you would or would not like to receive when you lose mental capacity or are in a state that makes communication impossible. You can choose some specific medical options and reject others.

◆ It is important to put down the

reasons for your advance wishes on paper. This will make your intentions clearer and create less controversy and argument if and when the time comes for crucial decisions.

◆ Since the will involves matters of medical treatment, it's helpful if you hold discussions with your doctor.

◆ Include your name, address, date and signature on the document. You can also get the will signed by a witness who can ensure that you are of perfectly sound mind at the time of writing. To be on the safe side, you might not want this person to be the same one

who would inherit your properties or benefit from your death.

◆ Sometimes, it's advisable to have your statement entered in your medical notes so that in case of any emergency, the physicians can proceed according to your will.

◆ Tell others about it when the will is done. There's no point creating such an important document if no one knows about it.

◆ The will can always be cancelled or annulled. In this case, make sure that your physician, family, friends and relatives are informed properly.

Such documents can provide detailed medical directives on matters such as tube feeding, pain-killing medication, organ donation and the like. In such cases, the will's creator will designate a health-care "agent" — a person or entity that can be totally trusted and will follow the will's terms strictly when the patient is no longer able to communicate.

Since the living will covers intentions you wish to convey when you're unable of communicate, then it should be explained to others, especially your family or close relatives. Mr Thawat says. It can be oral or written down formally. "However, to be practical, one should put the will down in writing."

However, because there is no local law covering living wills, they are not

considered legally binding. This can become very complicated and sensitive, given that it's a matter of life and death.

"Say a father writes a living will saying he doesn't want to live on life support and wishes to spend his last days at home," says Mr Thawat. "This creates controversy within the family as some of the children or relatives wonder and hope there are still chances he will recover through intensive medical treatment one day. On top of that, at the end of the day, no one wants to be blamed for being the one who let the father die."

In the end, it comes down to trust and compassion, says Suvam Vataisathien, a tax lawyer and chairman of the Savers Club.

He says that one should look at the

suffering the person is facing. If she is in extreme pain and the doctors insist there are no chances of recovery, then the people close to the patient should follow what is written in the living will.

"It's useless if a person has to live unhappily and painfully," says Dr Suvam. "Besides, it doesn't make sense wasting tens of thousands of baht a day on hospital bills if the condition isn't going to be better. Doesn't it make more sense leaving the money behind to your children so they can make most use of it?"

He further suggests that one should express clear intentions and directions in the will and explain its terms to the people they trust the most.

"And, most of all, make the best of your time when you're young," he says.