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Living wills take guesswork out of patient care

BY JULIO DIAZ
FLORIDA TODAY

The legal back and forth for Terri Schiavo's life has given relevance to living wills.

The Florida woman has been kept alive artificially for 15 years while her husband and her parents battle over whether she should be allowed to die. In a persistent vegetative state, she is unable to make her own decisions about her life and medical care.

"A living will is basically the procedure for a person to express their wishes that they want to withhold or withdraw life-pro-



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Tonya Meister, an associate with the Melbourne law firm of Morgan & Barbary

longing procedures in the event of a terminal disease, end-stage condition or persistent vegetative state," said Tonya Meister, an associate with the Melbourne law firm of Morgan & Barbary. "People think of it most commonly as pulling the plug if they're on machines."

Schiavo's husband insists she never wanted to be kept alive artificially. Her parents have fought that assertion in the courts.

It's not a battle Maria Smith of Indialantic wants her family to have to wage.

She and her husband Gary recently had living wills drawn up.

The decision gives Maria Smith tremendous peace of mind.

"You read in the paper all the time about situations like Terri Schiavo's, where there is no living will and the family members are fighting over what to do," Smith said. "I don't want my family to be put through that."

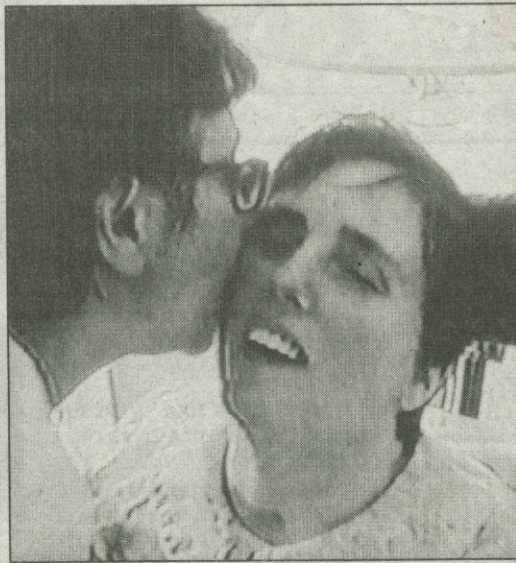
Smith's career as a medical transcriptionist inspired her to file the living will.

"I type hospital reports all day long," she said, "and all day long I read about elderly people who are sick, in the hospital and the family is fighting over what to do with a

See WILL, 2E

How to get one

A living will written with an attorney costs between \$75 and \$300. Complex estate planning can be more expensive. Should you opt not to use an attorney, the ABA, AARP and the American Medical Association have collaborated on a comprehensive advance directive form available on the American Bar Association's Web site at www.abanet.org/aging

**Terri's battle.**

Terri Schiavo, right, gets a kiss from her mother, Mary Schindler in this Aug. 11, 2001, image taken from videotape and released by the Schindler family. Schiavo has been in a vegetative state for 15 years.

AP

Schiavo's case inspires many to file living will

WILL, from 1E

loved one because they don't have a living will or Do Not Resuscitate (order)."

A living will can prevent such conflicts.

"The standard under the law when you have a living will provides a presumption of clear and convincing evidence of the patients' wishes," Meister said. "If there was a living will, (it) would provide clear evidence."

Even with a living will, two physicians must determine there is no hope of recovery before any life-prolonging procedures may be withdrawn or withheld, Meister said.

In addition to a living will, many people choose to name a health-care surrogate, an individual who is empowered to make their health-care decisions if they are incapacitated or unable to communicate their wishes to physicians.

Meister advises her clients to name a surrogate at the same time they make the living will. That way, she said, "if you are incapacitated, and you have appointed someone you trust, they can carry out your wishes."

The Smiths filed their living wills simultaneously with their traditional wills. Maria Smith said this "makes it a real painless process."

No matter when a person chooses to plan their living will or health care advance directive, one step is crucial: It is the patient's responsibility to make his or her physician aware of their wishes. Otherwise, it is the physician's responsibility to keep the patient alive for as long as possible.

Once you've got a living will, let your primary care physician and next of kin know about it.

"When you come in to the hospital, a standard question at admitting is, 'Do you have a living will?'" Meister said.

Like a traditional will, Meister said it's never too soon to plan a living will.

"There's not really a set age," she said. "A prudent person should have one. It's much easier if you make those decisions now while you are competent and able to make those wishes. We all plan on living a long healthy life, but that doesn't always happen."

Meister said she has one.

"I don't want to live in a vegetative state," she said. ■

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