

Schiavo Case Underscores Importance of Living Wills

By Peter R. Spirgel, Esq.

The recent events surrounding the Schiavo case underscore the importance of documenting your wishes regarding extra-ordinary medical treatment while you are still capable. In New Jersey, living wills (sometimes called "advanced directives") are widely accepted by health care institutions. In fact, most hospitals will ask whether you have a living will prior to undergoing a scheduled medical procedure. In an emergency, many hospitals have a standard living will form that you can sign upon entering the hospital in situations where you have not previously prepared a living will; however, these forms are typically not as comprehensive as a properly drafted document prepared by an estate lawyer.

Control over your health care decisions requires four simple steps:

- 1) Prepare a living will detailing your desires regarding the use of "heroic measures" to keep you alive. Make sure loved ones know where the document is located.
- 2) If you have a life threatening or debilitating condition, clearly communicate your treatment desires to caregivers and family.
- 3) Prepare a medical power of attorney appointing someone as your legal representative to make medical decisions for you in the event that you are not able to personally communicate your desires. This document avoids the situation presently unfolding in the Schiavo case where family members are fighting over a course of treatment.
- 4) Investigate long-term care insurance. Even where maintaining life-sustaining measures are not an issue, medical illness can quickly dissipate a family's financial resources. This type of insurance can avoid the situation where a healthy spouse or family members are forced to impoverish themselves to provide for the care of an infirm loved one.

Peter R. Spirgel, managing shareholder of Flaster/Greenberg P.C., concentrates his legal practice in estate planning, taxation and corporate mergers and acquisitions.