

# *The Estate Planning Advisor*

## **Lessons from Schiavo**

**By: Richard J. Shapiro, J.D.**

The recent Terri Schiavo tragedy has led to a national discussion on end-of-life issues. Regardless of one's personal feelings, here are some of the general lessons learned:

**Lesson 1: Understand the legal documents** – After *Schiavo* people are talking about the need for Living Wills. A Living Will is a broad legal document detailing your preferences for life prolonging treatment if it is medically determined that you are terminally ill with no reasonable expectation of recovery. But a Living Will is but one piece of the equation. It is critical that you also execute a Health Care Proxy which designates a trusted person (and hopefully a successor) to make health care decisions for you if you are unable to do so, including carrying out your wishes as stated in the Living Will.

**Lesson 2: Consider the issues, make your decisions *and* get it in writing** – After you have had a chance to consider the variety of medical decisions you may face and have examined your own belief systems and desires, you need to commit your decision to paper. But that is not enough; you must be sure to follow the statutory requirements of the state in which you live. In New York, for example, we have a statute detailing the requirements for designating a valid Health Care Proxy, but there is no statutory provision for Living Wills; the latter documents are authorized by the Common Law. In either case, you are best served by discussing your preferences with an experienced estate planning attorney.

**Lesson 3: Communicate your decisions to others** – Once your documents are drafted, it is wise to share the information with everyone who might someday be involved with your healthcare. In fact, it is a good idea to provide a copy of your documents to your primary physician for inclusion in your file

**Lesson 4: Be sure your written instructions are readily available** – It doesn't help to memorialize your instructions if they can't be located when they are needed. Wherever you choose to store your documents, make sure your designated "helpers" know where they are located and can gain access to them. You might consider a service provided by a company such Docubank ([www.docubank.com](http://www.docubank.com)) that will store your documents electronically and fax them to a doctor or hospital 24 hours a day seven days a week wherever they may be needed.

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