Living Wills and Health Care Proxies
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Drafting a living will and choosing a health care proxy can ensure patients receive the medical care they want, even when they can no longer speak for themselves.

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SOLEDAD O'BRIEN, co-host:

Earlier we spoke about a family's long and difficult struggle over a loved one's health care after she slipped into a coma. It is a crisis no one wants to face and very few families have planned for. In fact, fewer than 25 percent of us have a living will or have named a health care proxy to make decisions should we be unable to speak for ourselves.

Janice Lieberman is TODAY’s consumer correspondent.

Good morning. It's nice to see you.

JANICE LIEBERMAN reporting:

Good morning.

O'BRIEN: Living will, health care proxy. Define both of these things for me so we know what we're talking about.

LIEBERMAN: OK. A living will is something that you would put in writing, and you can get a living will from any office supply store, online. You should go have a lawyer at least look it over; they shouldn't charge you more than $50, just to make sure that in your state, everything's spelled out. `This is what I want. I don't want life support, I don't want a feeding tube, I don't want hydration,' everything is spelled out exactly as you want it.

O'BRIEN: Whenever we hear high-profile cases, or stories like the one we talked about this morning, a woman who's been now on a feeding tube for a long, long time, you have discussions with people and
they all have very specific ideas, `I wouldn't want that,' or, `Oh, I would definitely want that.' So I'm shocked when I see what a small percentage of people actually go ahead and make their wishes known in writing or appoint somebody. You have some advice and you say the best time to do it is right now.

LIEBERMAN: Do it now while you're healthy. You don't know what's going to happen to you. You don't know if you're going to get into an accident, you don't know if you're going to be incapacitated mentally in some fashion. Do it now, get it over with, appoint somebody. And also, appoint a backup.

Unfortunately, I lost my father a couple weeks ago and every time we went to the hospital they asked us, `Do you have a proxy? Do you have a living will?' And it was my husband and my brother-in-law who were backup people. Now, they weren't as close as we were, so it was easier for them to be unemotional, or less emotional when it came to his care.

O'BRIEN: So...

LIEBERMAN: And he was very specific about what he wanted.

O'BRIEN: So, then, two things there. Let's talk about the last one first, be very specific. Should you, in your living will, specifically site, `I do not want a feeding tube. I want this, I want that.' Should you be that specific?

LIEBERMAN: You should be that specific, but, you know, things can change in medicine over the years and you don't know what's going to happen. So a lot of attorneys are saying, `Use the health care proxy,' because they know and they will determine later on as things become available, what you really want, what in your heart you would really want to happen. And if there's ever a problem and the hospital doesn't really know, they're going to opt to keep you alive because they don't want to be sued. So...

O'BRIEN: You mentioned that when your father passed away, he had named your husband as the health care proxy, which surprised me. I would have thought you'd go with someone who's an immediate family member as opposed to someone who married in. But you say just for emotional reasons that could actually be the smarter choice.

LIEBERMAN: Well, when you see somebody there, you want to--and you love them to pieces, you don't want them to suffer at all, but you also want to keep them alive at any expense because you'd rather have them around.

At least there's somebody else who listened to him and said, `This is what I want.' He was a doctor and he knew exactly, `I don't want a feeding tube. I don't want to be resuscitated.' These are very important things that he did tell my brother-in-law and my husband.

O'BRIEN: Where should you put your living will? Because many people, in fact, now that I think about it, I've stuck mine inside a--a security deposit--a safety deposit box at the bank.

LIEBERMAN: That is absolutely the wrong place because as we found out from the attorneys, that is the first thing locked if somebody is in a problem, if you have to get to it.

O'BRIEN: No one'll have access.

LIEBERMAN: No one'll have access to it and the hospitals, again, will keep you alive. Keep it everywhere that people know, have copies all around. And also, if you're found unconscious or in an accident someplace, have a card in your wallet that says, `For emergency, call...' so at least they have a
contact person and they won't do something that you didn't wish to be done.

O'BRIEN: What happens if you have a living will, or you have a health care proxy and a backup, as you suggest, and you're hospitalized in a different state which has different laws than your state might have? Do they still go by what you've already chosen in your original state?

LIEBERMAN: They will because it was done in good faith and the state in which you lived it didn't happen in, they probably will do it. But you still have to get that person on the phone or someplace and know who to contact. Because, if all else fails, they don't want to be sued. They will do everything in their power to keep you alive. And a lot of hospitals have religious beliefs, too. So if it's something that goes against what they would want, that must be in writing because that's not how they feel.

O'BRIEN: So if you have an idea about what you want, then you need to make your--your needs known now.

LIEBERMAN: Right, and appoint somebody.

O'BRIEN: All right.

LIEBERMAN: And that can change at any time.

O'BRIEN: And of course, you know, all of us were very sorry to hear about your dad.

LIEBERMAN: Thank you.

O'BRIEN: Thanks for joining us this morning, Janice. Appreciate it.