

# Living Will vs. Last Will and Testament

At Kayne Anderson Rudnick we understand that building and preserving your wealth is paramount. Equally important is ensuring that your legacy and wishes are honored, regardless of life's uncertainties. **Estate planning** is a cornerstone of comprehensive financial security, yet it often comes with its own set of complexities and commonly misunderstood terms. Among these, the 'Last Will and Testament' and the 'Living Will' are frequently confused. While both are crucial components of a robust estate plan, they serve distinctly different purposes. In this article, we'll demystify these two vital documents, clarifying when and how each one protects your interests and provides peace of mind for you and your loved ones.

## What Is a Living Will?

A Living Will, also known as an advance directive, is a legal document that articulates your desires regarding medical treatment and healthcare decisions should you become incapacitated and unable to communicate your wishes. It provides clear instructions to medical professionals and your loved ones about the types of life-sustaining treatment you would or would not want, such as artificial respiration, feeding tubes, or resuscitation, ensuring your values and preferences guide your care in critical health situations.

## What Is a Last Will and Testament?

A Last Will and Testament is a legal document that expresses your final wishes concerning the distribution of your assets and property after your

Wills are crucial components of a robust estate plan—but what's the difference between a 'Last Will and Testament' and a 'Living Will'?

death. It specifies who will inherit your real estate, financial accounts, and personal belongings. Additionally, it allows you to designate guardians for any minor children or dependents and to name an executor (personal representative) responsible for managing your estate, paying debts, and carrying out your instructions as outlined in the will.

## Comparing a Living Will vs. Last Will and Testament

To help clarify these distinctions at a glance, the following chart outlines the key characteristics and applications of each document.

Feature	Living Will (Advance Directive)	Last Will and Testament
Purpose	To express your wishes regarding medical treatment and healthcare decisions.	To dictate how your assets and property will be distributed and managed after your death.
Timing (When Active)	Becomes active if you are alive but become incapacitated and unable to make or communicate your own healthcare decisions.	Becomes active and legally enforceable only upon your death.
Legal Authority	Grants authority to medical professionals and/or a designated healthcare agent to make decisions according to your stated wishes.	Grants authority to an executor (personal representative) to manage your estate, pay debts, and distribute assets as you've directed.
Key Decisions Covered	<ul style="list-style-type: none"> <li>Life-sustaining treatments (e.g., ventilation, feeding tubes)</li> <li>Pain management</li> <li>Organ donation</li> <li>Palliative care</li> <li>Specific medical interventions you accept or decline</li> </ul>	<ul style="list-style-type: none"> <li>Distribution of real estate financial assets and personal property</li> <li>Appointment of guardians for minor children or dependents</li> <li>Naming of an executor to administer your estate</li> <li>Instructions for debt and tax payments</li> <li>Charitable bequests</li> </ul>

Who It Affects	Primarily affects you directly, your family, and your medical care providers.	Primarily affects your beneficiaries, heirs, minor children, and the executor of your estate.
Setup	<ul style="list-style-type: none"> <li>Typically involves completing a form or drafting a document outlining your medical wishes.</li> <li>Requires your signature and often witness signatures (state-specific).</li> <li>Best done with legal guidance and shared with your primary care physician and family.</li> </ul>	<ul style="list-style-type: none"> <li>Involves drafting a detailed legal document specifying asset distribution and other directives.</li> <li>Requires your signature in the presence of a specified number of witnesses (varies by state).</li> <li>Should adhere strictly to state laws and is highly recommended to be prepared by an attorney.</li> </ul>

## How Do Trusts Differ?

While not the same as a Last Will and Testament, many comprehensive estate plans also incorporate Trusts. **A trust** is a separate legal arrangement that allows you to transfer assets to a trustee for the benefit of beneficiaries, potentially offering benefits like probate avoidance and privacy, and can facilitate asset transfer during your lifetime.

## Do You Need Both a Last Will and a Living Will?

A solid estate plan should include both a living will and a last will and testament. They each serve different purposes and are complementary rather than interchangeable documents.

## Estate Planning with KAR

A living will and last will and testament are critical components of estate planning and help ensure your wishes are carried out seamlessly in the event of either a healthcare crisis or your death. At KAR, we can help you build an estate plan to organize your financial affairs, protect your loved ones, and minimize potential tax

burdens on your heirs. We can **work with your estate attorney to structure your affairs** through a last will and testament, trusts, beneficiary designations, and other strategies for preserving and distributing your assets and caring for your loved ones.

**Contact** our estate planning and wealth advisor team at KAR today.

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