



**Doc. 12088**

27 November 2009

## Living wills and the protection of health and human rights

### Motion for a resolution

tabled by Ms Christine McCafferty and other members of the Assembly

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This motion has not been discussed in the Assembly and commits only those who have signed it

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Protecting health, human rights and the dignity of all human beings in all stages of life, in particular for seriously ill or dying persons, remains a key concern of the Council of Europe, as recently stressed by the Parliamentary Assembly in its [Resolution 1649 \(2009\)](#) on palliative care: a model for innovative health and social policies.

Against the backdrop of an ageing population, the Assembly considers that there is widespread interest for the application of living wills to the area of mental health. Mental patients who are very ill or are in hospital are often unable to make decisions in their own best interest and the responsibility for decision-making is transferred to a health professional, court or tribunal.

Through advances in medical technology, some patients affected by incurable or fatal diseases or whose life is in serious danger can now be kept alive by artificial means. Sometimes a patient may desire such treatment because it is a temporary measure potentially leading to the restoration of health. At other times, such treatment may seem undesirable because it may only prolong the process of dying rather than restore the patient to an acceptable quality of life.

As long as a patient is mentally competent, he or she can be consulted about desired treatment. When a patient has lost the capacity to communicate, however, the situation is different. A living will is a voluntary statement outlining the types and conditions of medical care that a person would prefer in a given situation prior to requiring care. It may also be used to inform the role and decisions of a third party who can advocate on his or her behalf. It may provide a structure for developing a preferred medical plan, which identifies medication, side-effects, primary health concerns and other special needs, such as diet, allergies or religious concerns.

However, the Assembly believes that the real issue is whether each person is seen as having the right to decide whether to institute, continue or terminate a treatment and what might be the uses, benefits and limitations of living wills, in view of a better protection of health and human rights at all stages of life.

*Signed (see overleaf)*



*Signed<sup>1</sup>:*

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1. ALDE: Alliance of Liberals and Democrats for Europe  
EPP/CD: Group of the European People's Party  
SOC: Socialist Group