

# Get Peace of Mind with Do-It-Yourself Living Wills: The Digitalisation of Medical-Legal Practice and the New Post-Covid 19 Approach

Michela Giordano<sup>1</sup>

<sup>1</sup> University of Cagliari, Italy

Correspondence: Michela Giordano, University of Cagliari, Italy.

Received: July 28, 2024

Accepted: September 30, 2024

Online Published: October 28, 2024

doi:10.5539/ijel.v14n6p57

URL: <https://doi.org/10.5539/ijel.v14n6p57>

## Abstract

“The automatisisation of the core tasks performed by legal practitioners [...] is an ongoing and open-ended process” (Schäfer-Zell & Asmussen, 2019, p. 65). “A host of innovative legal-tech companies have entered the market of legal service providers, presently challenging the lawyers’ monopoly over the practice of the law, and ultimately, altering the mode of production in the legal field” (Caserta, 2020, p. 1).

Beginning with these assumptions, this study draws on ongoing research on healthcare powers of attorney, living wills, and advance directives (Giordano, 2019, 2021) and will explore the current radical changes and restructuring of modalities of production in medical-legal documents and in the delivery of legal services.

The legal websites in the corpus under investigation provide guidance in creating a personal living will according to well-established legal procedures that are pursuant to the laws and regulations of a particular state or country. Living wills and advance directives are signed documents in which the declarants state whether or not they wish to be kept alive using artificial means in the event a doctor declares their death to be imminent. Doctors and medical practitioners are legally bound to follow these directives. Following the increased digitalization of the legal field, these documents are now frequently drafted and completed online, thus embracing the full potential of the new technologies available today. Both verbal and visual rhetoric (Murray, 2014; Sherwin, Feigenson, & Spiesel, 2005) will be investigated to ascertain whether and to what extent digital transformation is redefining the ways in which this legal service is offered, thus promoting greater understanding and wider knowledge of a controversial issue such as making decisions regarding one’s end of life and the choices available among various life-prolonging measures and treatments. The research aims to determine whether the new digital genres can help translate the specific constraints and demands of legal argumentation into new popular, cultural and technological discourse which better appeals to peoples’ emotions and values. The legal sector’s increasing use of digital forms and templates embellished with visual and multimedia content may at once have a commodifying and democratizing effect. Legal meanings and services in the new legal market (Schäfer-Zell & Asmussen, 2019, p. 66) might be better understood and internalized, thus reinforcing and disseminating the emerging vernacular of digital culture along with law, regulations and legal institutes and instruments, which would otherwise be difficult for a layperson to comprehend or accept (Anesa, 2016; Calsamiglia, 2003; Calsamiglia & van Dijk, 2004).

In addition to this process of democratization of new media, the Coronavirus pandemic also contributed to changing people’s approach to life (Garzone, 2023) and to living wills, triggered by an increased sense of precariousness of life and imminence of death. English-speaking countries, in particular, have seen a surge in people updating and altering advance directives as a result of the complications caused by the disease; different steps might be taken now, when current documents may be dangerously inadequate. The best ways to update existing texts to the new post-Covid 19 conditions therefore call for thorough investigation.

**Keywords:** digital living wills, advance directives, legal practice, post-Covid approach, digitalisation

## 1. Introduction

The legal profession is undergoing a significant transformation due to technological advancements. As noted by Schäfer-Zell and Asmussen (2019, p. 65), “The automatisisation of the core tasks performed by legal practitioners [...] is an ongoing and open-ended process”. This statement encapsulates the dynamic nature of automatisisation in the legal field, highlighting its evolution and implications. Legal practitioners have traditionally relied on their

expertise, skills, and sound knowledge of the law to perform their tasks. However, the introduction of automation technologies is reshaping these core tasks. Document review, contracts, legal research are now being augmented or sometimes replaced by online platforms.

The developing nature of this automatization procedures is evident in the constant progress of new legal technological tools. These innovations range from simple document creation software to sophisticated platforms capable of analyzing and creating vast amounts of legal data in a fraction of the time it would take a human legal operator. This continuous advancement suggests that the scope of automatization in legal practice and procedures is likely to expand further in the future.

Needless to say, some aspects of legal automatization present both opportunities and challenges for the profession. On the one hand, it offers potential efficiency, reduced costs, and improved accuracy in certain duties. For instance, online contracts can identify potential concerns and inconsistencies more quickly and thoroughly than manual review. On the other hand, there are doubts about the future role of human lawyers and professionals and the potential need for new skills in the legal employees.

Despite the progress in automatization, it is important to note that many core legal duties and procedures still require human judgment and reasoning, creativity, and empathy. Intricate negotiations, strategic decision-making, and client counselling are areas where human lawyers and professionals continue to play a fundamental and necessary role. The challenge for the legal profession remains in finding the right equilibrium between balancing automatization for efficiency and productivity and maintaining the human elements that are essential to the practice and procedures of law.

As the automatization of legal tasks continues to evolve, it is likely to have profound implications for legal education, professional development, and the overall structure of law firms and legal employees. In point of fact, adapting to this changing landscape will be crucial for legal practitioners to remain competitive and effective in their tasks.

Focusing on the theme of this investigation, the branch of healthcare and law, significant changes are reshaping how approach end-of-life decisions and legal documentation related to them are approached. This paper examines recent developments in healthcare powers of attorney, living wills, and advance directives, drawing from previous research (Giordano, 2019, 2021). We will explore how these changes and adjustments are transforming the creation of specific medical-legal documents and the delivery of legal services.

Healthcare powers of attorney, living wills, and advance directives are critical tools that allow individuals to state their healthcare choices if they become incapacitated. These texts have customarily been constructed through face-to-face interactions and collaborations between lawyers and clients. However, recent technological advancements and social changes have led to new methods of producing and managing these important legal instruments.

The ongoing research by Giordano highlights several key areas of transformation and change:

- 1) Digitalization of legal documents: There is a raising trend towards digital creation, storage, and management of healthcare powers of attorney and advance directives. These changes allow for easier access, updating, and sharing of these documents and digital texts among healthcare suppliers, legal professionals, and family members.
- 2) Telemedicine and remote legal services: The COVID-19 pandemic speeded the embracing of telemedicine and remote legal consultations and sessions. This change has effects on how healthcare decisions are discussed and documented, potentially increasing ease of access to legal services and assistance for creating advance directives.
- 3) Artificial Intelligence and online tools in legal document planning, formulation, and preparation: AI-powered instruments are being developed to help in drafting medical-legal documents, probably reorganizing the process and procedures and reducing costs. However, this raises issues about the position of human judgment and expertise in creating these difficult documents.
- 4) Interdisciplinary collaboration and teamwork: There is an increasing emphasis on collaboration between legal professionals, healthcare providers, and ethicists in the creation, implementation, and completion of advance directives, leading to more comprehensive and effective documents.

These transformations in the production and management of medical-legal documents are part of a visible and extensive change in the legal services industry. Law firms and legal professionals are adapting to new technologies and client expectations and requirements, leading to more efficient and accessible legal services.

However, these innovations also advance essential ethical and practical considerations and concerns. For instance, how can professionals ensure that digital systems and procedures adequately protect sensitive medical and legal information and data? How do we balance the efficiency of technology-aided document creation with the need for

customized legal advice? It is crucial to carefully consider how these technological and procedural changes affect the quality, accessibility, and effectiveness of advance directives. The evolving scene of medical-legal documents and legal services presents both opportunities and challenges that demand continuing research and considerate implementation.

## 2. Theoretical Framework

By examining the discourse features and popularization techniques used in online living wills and medical powers of attorney, we can better understand how digital platforms are transforming legal services and potentially democratizing access to important legal documents.

First of all, works on legal discourse and rhetorical strategies in legal language have been considered. Additionally, the power of attorney, for its characteristics, is considered here as a conventional and creative legal genre in Common Law contexts, (as shown by Giordano, 2019) More recently the research of the present author has also been dedicated to the investigation of advance directives or living wills, which is a form of legal instrument increasingly used in Common Law countries (Giordano, 2021).

Useful insights have been gained from works dealing with expert-lay online interaction in the legal field and popularization discourse. The analysis of verbal and visual legal rhetoric in online documents was carried out according to the visual techniques suggested by Murray (2014) and the metadiscourse features Hyland (2005a, 2005b, 2007) suggests as elements of reformulation and exemplification, which contribute to enhancing the interaction between writers and readers. As will be shown, the result is the construction of legal documents with a high level of interactivity in a participatory framework in which legal knowledge is built through the collaboration between experts and laypeople. Genre migration (Garzone, Poncini, & Catenaccio, 2007) to the web is another issue that has been considered when dealing with online living wills.

To say it with Garzone, Doerr and De Riso (2019a, p. 1), “In the last few decades a variety of bioethically-relevant issues have been at the centre of public debate, attracting ample coverage from the media in a context where unprecedentedly fast and pervasive scientific and technological progress has led to new questions on the actual application of advances to real life cases”. They continue by stating that “bioethical issues are at the centre of political, legal, and cultural debates at a global level, especially in the aftermath of unprecedented legal and ethical scenarios opened up by the recent pandemic [...]” (Garzone et al., 2019a, p. 2).

## 3. Data and Methodology

This study is based on two primary sources of online legal documents:

- 1) The Living Will: This document allows individuals to specify their preferences for end-of-life medical care.
- 2) Medical Power of Attorney: This document appoints a person to make medical decisions on behalf of the individual if they become incapacitated.

While both documents deal with medical decision-making, they serve distinct purposes:

- A living will outlines specific medical treatments an individual does or does not want to receive in certain situations.
- A medical power of attorney appoints a trusted person to make medical decisions on behalf of the individual.

The transition of these legal documents to online platforms has significant implications: a) increased accessibility to the general public; b) potential for simplified language and user-friendly interfaces; c) challenges in maintaining legal validity and security.

The analysis will be developed across three main layers, in order to examine how these online documents utilize:

- 1) Metadiscourse: The use of language to guide the reader through the document (Hyland, 2005a, 2005b, 2007);
- 2) Verbal legal rhetoric: The specific language choices used to convey legal concepts (Trosborg, 1997);
- 3) Visual legal rhetoric: The use of design elements to enhance understanding (Murray, 2014).

This study is grounded in Calsamiglia’s (2003) concept of asymmetry between experts and non-experts in specialized fields. We will explore how online legal documents may be working to level this asymmetry in the legal domain, how popularization is at work in these online documents in order to translate complex legal concepts into more understandable language, to redefine legal services as vernacular digital objects accessible to laypeople and, last but not least, to reduce the knowledge gap between legal experts and the general public, i.e. those who know, and those who don’t, to paraphrase Calsamiglia (2003, p. 142). Garzone, Paganoni and Reissigl (2019b, pp.

5–6) explain that “In specialised domains, medicine and health are among that most directly affect people’s lives, embracing topics about which ordinary people discuss, express opinions, take a stance, and about which they sometimes have to make crucial decisions. [...] Medicine is one of the few specialised domains with a consolidated ‘popular register’”.

By examining the discourse features and popularization techniques used in online living wills and medical powers of attorney, we can better understand how digital platforms are transforming legal services and potentially democratizing access to important legal documents. “Popularising genres especially enable practitioners’ and participants’ ideological stances regarding innovative and controversial decisions and practices to be communicated, and supported or opposed, in an open and accessible arena (Garzone et al., 2019a, p. 3).

#### **4. Advance Directive, Living Will, and Medical Power of Attorney**

Advance directive is the general and recognised term used to mean the combination of two different legal documents: the living will and the medical power of attorney. These are the main differences between the two legal-medical instruments:

The living will or advance directive describes what type of medical care users want to receive if they become incapacitated, while the power of attorney describes who should take those decisions on users’ behalf when they become unable to do so. Both legal instruments’ regulations vary from state to state in the US and are considered types of advance directives.

The living will is used to state future health care decisions when a person becomes unable to make decisions on their own. It is used at the end of life if a person is terminally ill or permanently unconscious. It describes the medical treatment users want or do not want to be given. Two doctors must confirm users are unable to make their own medical decisions and choices. Users may end or take back a living will at any time. Living will laws and regulations vary from state to state

For the medical power of attorney, users name a person to be a proxy (agent) to make their health care decisions if they become unable. Their proxy or agent can communicate with their health care team and caregivers on their behalf. The proxy can make decisions according to the wishes, choices, or directions users gave earlier. If users recover and regain the ability to make their own decisions, the proxy cannot continue on their behalf. Users may also choose to name a back-up person. Medical power of attorney laws and regulations as well vary from state to state.

#### **5. Discussion**

In recent years, the legal profession has experienced a major revolution due to the rapid advancement of technology. This digital transformation has impacted various aspects of legal practice, changing the way lawyers, and legal practitioners in general, work, deal, and interact with clients.

The legal activity is experiencing a major shift towards digitalization in several key areas. We are witnessing a significant digitalization in various legal fields: due diligence, contract review, and document automation. Client portals and intranet-based collaborative platforms are becoming more and more sophisticated (Caserta, 2020); law firms are adopting sophisticated online platforms to improve communication and collaboration: these secure websites allow clients to access case information, documents, and billing details at any time. This transparency enhances client satisfaction and enables lawyers within a firm to share knowledge and collaborate on cases.

The Internet has not only transformed how legal work is carried out but also how legal information and practice is presented and accessed. We have witnessed the migration of existing genres to the Internet; indeed, traditional and conventional legal documents such as contracts, briefs, and legal opinions are now often created, shared, and stored in digital formats. Additionally, new web-based genres have emerged, such as legal blogs, online legal advice forums, and interactive legal education platforms. This is well explained by Garzone (2007): in the digital era we have seen the migration of previously existing genres to the web and witnessed the evolution of previously existing genres into new genres in the web-mediated environment.

Various generic features and moves (Swales, 1990) have been identified in the healthcare power of attorney and the living will (when it is a unified document in the form of an advance directive), which can be listed as follows:

- self-identification of the declarant in the opening statements
- object of the legal instrument
- if-clauses to anticipate any possible future event
- declarant’s will to express his/her own wishes and decisions (to be taken in the event he/she becomes

unable or incapable)

- he/she instructs family, physicians and attorneys to take certain actions according to the various circumstances listed below
- the end-of life decision section
- list of life-sustaining medical treatments
- final closing statement with the declarant's signature and date
- two witnesses' acknowledgement and signatures
- notarization
- health power of attorney
- designation of a proxy
- the declaration of anatomical gift (which the declarant can include "for the purpose of transplantation, therapy, medical and dental research or education")
- autopsy consent

Generally, the essential aspects of a living will comprise the addressees of the legal documents followed by the declarant's personal data (self-identification of the declarant) in the opening statements. The object of the legal document is clearly indicated by the sentence which will specify "If the time comes when I can no longer take part in decisions for my own future, let this declaration stand as the testament of my wishes" in which the legal validity and authenticity of this document as a living will are acknowledged through the if-clause which hypothesises possible future events and states the declarant's will to express his/her own wishes and decisions to be taken into account in the event he/she becomes incapable of voicing them. The declarant's end-of-life wishes then follow and will include the decisions regarding life-sustaining medical treatments to be used in order to "die with dignity" and "not be kept alive by artificial means". This represents the body of the document and in this particular example the declaration and request are expressed generically, and the various life-sustaining medical treatments are not always listed precisely. Then, the closing statement with the declarant's signature and date follows along with two witnesses' acknowledgements and signatures: this part is devoted to the formalities necessary to validate the document.

Below is the first legal template used as data for this study found in an online living will on the website Free US Legal Forms at <https://legaltemplates.net/> (see Figure 1), which allows users to "Create Your Free Legal Documents & Contracts Online in Minutes".



Figure 1. Homepage of the LegalTemplates website

Source: <https://legaltemplates.net/>.

Let us take into consideration the California Living will template on the Legal Templates website. As can be seen from the screenshot in Figure 2, the first online page is visually subdivided into two columns: on the left, the

percentage of progress in filling in the form is shown followed by an index, the list of pages in the website showing acknowledgments, personal information of the declarant, instructions for health care donation of organs, info on the primary physician and further final details.

The central column is devoted to the actual part of the form which starts with the acknowledgement and explanation of the lay-person's right to give instructions about his/her health care (Figure 2 and Excerpt 1). Instructions on how the form works then follow.

The screenshot shows a web browser window with the URL <https://app.legaltemplates.net/pdf-builder/documents/10910924/Acknowledgment/Acknowledgment>. The page title is "California Living Will Acknowledgment". On the left, there is a sidebar with a "Progress" indicator at 11% and a list of sections: Acknowledgment (selected), Your Information, Instructions for Health Care, Donation of Organs, Primary Physician, and Final Details. Below the sidebar are buttons for "Preview", "Save Progress", and a "Sign-Up to save your progress!" call to action. The main content area contains three text boxes: the first states the user's right to give instructions; the second explains the form's purpose and options; the third states the right to revoke the directive. At the bottom of the main content is a checkbox labeled "I acknowledge the above." and "Skip" and "Next" buttons.

Figure 2. First online page in the California Living Will template

Excerpt (1)

### Acknowledgment

**You** have the right to give instructions about **your** own health care. If **you** use this form, **you** may complete all or any part of it. **You** are free to use a different form.

This form lets **you** give specific instructions about any aspect of **your** health care, whether or not **you** appoint an agent. Choices are provided for **you** to express **your** wishes regarding the provision, withholding, or withdrawal of treatment to keep **you** alive, as well as the provision of pain relief. Space is also provided for **you** to add to the choices **you** have made or for **you** to write out any additional wishes.

**You** have the right to revoke this advance health care directive or replace this form at any time. (emphasis mine)

The use of engagement markers is exemplified by the pronoun **you** used 12 times and **your** used 3 times in this short text of acknowledgment. As Hyland explains, writers acknowledge the presence of their readers, guiding them along with their arguments, focusing their attention, acknowledging their uncertainties, including them as discourse participants and leading them to interpretations (Hyland, 2005b, p. 176). Reader pronouns are perhaps the most explicit way that readers are brought inclusively into a discourse.

Figure 3. Your Information page in the California Living Will template

In the following pages, the visual layout is always subdivided into three columns: this time, the central column starts with the form to fill in with the declarant's data, organized in subsequent boxes to be filled in step by step. The third column is devoted to explanation and definitions: this part is always introduced by a question which creates a dialogue with the receiver (Hyland, 2005a): **What is a living will?** (Excerpt 2) is in this case followed by an explanation of what a living will is for and what it does. The second paragraph provides a further explanation and an exemplification, through the exemplification marker *for example* (Hyland, 2007, p. 278) of what can be specified in a living will, information such as what kind of life support or treatment a declarant wants to receive, and what his/her wishes are in the event of a terminal condition. According to Hyland (2007, p. 278) "exemplification plays a key part in the interactive process between reader and text as the writer anticipates and responds to the reader's possible need for clarification and provides a more accessible way of perceiving it". Popularization represents a process of text production or recontextualization in which explanatory structures, which are a typical popularization strategy, play an important role in the communication of legal information (Anesa, 2016, p. 69).

Excerpt (2)

### **What is a living will?**

A living will document **informs** your family and healthcare professionals of your preferences and wishes towards the administration or refusal of end of life medical treatment.

**For example**, you can specify whether you want to receive life support or treatment such as feeding tubes or dialysis, what your wishes are in case you have a terminal or near unrecoverable condition, or if you wish to participate in organ donation. (emphasis mine)

Examples represent "practical expressions embedded in the on-going text to illustrate and support a prior locution (Hyland, 2007, p. 279). In this case, in Excerpt (2) the sentence introduced by "For example" offers some instances of a general category, which is represented by "preferences and wishes" in the previous sentence.

Figure 4. End-Of-Life Decisions page in the California Living Will template

On the third page of the website, a form can be found concerning end-of-life decisions. The questions asked regard the conditions and circumstances under which the declarant does or does not want his/her life prolonged. In the third column an explanation of end-of-life decisions and life sustaining treatments include a discussion on drugs, machines or medical procedures that would keep users alive but would not cure them. Here the use of reformulation, through the restatement or elaboration of the previous statement in different words helps facilitate comprehension (Hyland, 2007). In this case, exemplification to facilitate the reader's understanding is obtained through an if-clause (*if you choose not to have life sustaining treatment*), so that meaning is clarified and supported by a second unit which illustrates the first providing an example (*you will still get medicines and treatments to reduce pain and keep you comfortable*). To put it in Hyland's words, "what is being expanded [...] is the reader's understanding, rather than an idea or a locution" (2007, p. 274).

Excerpt (3)

#### **What are end-of-life decisions?**

This section will state your preference regarding end-of-life decisions and **whether or not** you want treatment to be provided, withheld, or withdrawn to keep you alive.

Life sustaining treatment **includes** drugs, machines, or medical procedures that would keep you alive but would not cure you. **If you choose** not to have life sustaining treatment, you will still get medicines and treatments to reduce pain and keep you comfortable. (emphasis mine)

The fourth page of this template regards relief from pain. Again, questions are directly addressed to the declarant, who can answer choosing the desired option, describing the situations for which he/she does not want any relief of pain or discomfort. The third column in the online page again displays a question with the following explanatory answer. The question in this case is asked in the first-person singular form **When will I receive relief from pain?** The answer is provided through repeated use of the second person pronoun **you**: *you will receive medicines and treatments*, which again engages the readers and guides them throughout the completion of the online living will form.

Excerpt (4)

#### **When will I receive relief from pain?**

**You** will receive medicines and treatments to reduce pain and keep **you** comfortable, even if it hastens **your** death. However, **you** can provide exceptions to this treatment in this section. (emphasis mine)

The same structure and layout are employed in the fifth page of the website dedicated to other wishes and instructions to be given.

Excerpt (5)

#### **What other instructions can I include?**



If **you** wish to add more detailed instructions or specific limitations regarding **your** end-of-life preferences, **you** may do so in this section. (emphasis mine)

The page devoted to the donation of organs at death displays four questions in the central form regarding whether the declarants want to include instructions for organ donation, what types of organs they wish to donate and for what purposes. The third column again is devoted to a question which recites as follows: **What is organ donation?** with the explanatory answer. It can be noticed that the last paragraph provides a link to the Organ Donation and Transplantation website: hyperlinks can be considered as frame markers inasmuch as they provide a guide to the following or subsequent arguments and questions and further explanations within the text itself.

Excerpt (6)

**What is organ donation?**

Organ donation is the giving of healthy organs (such as liver, kidney, or heart) or tissues (such as skin, cornea, or bone marrow) to a person in need of a transplant.

In this section, you can state your wishes regarding whether you want to donate your organs and tissues, what organs or tissues you want to donate, and for what purposes you want to donate such organs or tissues.

For more information regarding organ donation, please visit the U.S. Government Information on Organ Donation and Transplantation website here.

The last online pages in the website ask questions about the primary physician who can be appointed by the declarant. The final page informs the declarant that the document is ready for review, complete to be printed and signed. This page also explains what signatures are required and states the need for the presence of two witnesses and the obligation to have the final document acknowledged by a notary public. Finally, Figure 5 shows the preview of the resulting document, which can be still amended and completed if any details are missing.

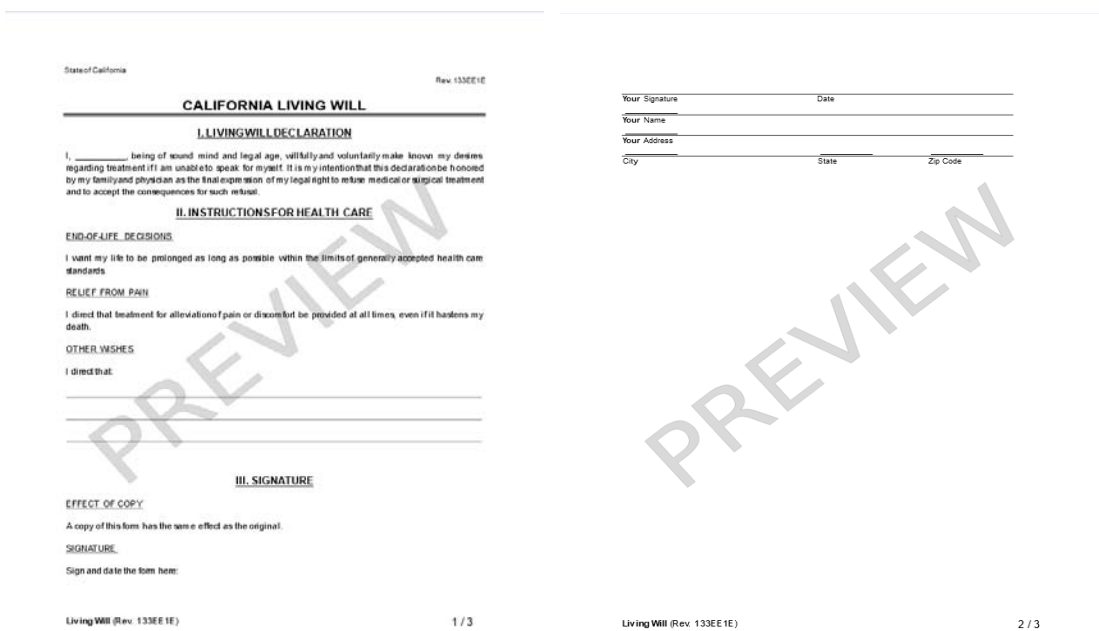


Figure 5. Preview of California Living Will produced at <https://legaltemplates.net/>

The second website under scrutiny here is the e-Forms site (<https://eforms.com/>) from which an online medical power of attorney was analysed (Figure 6).

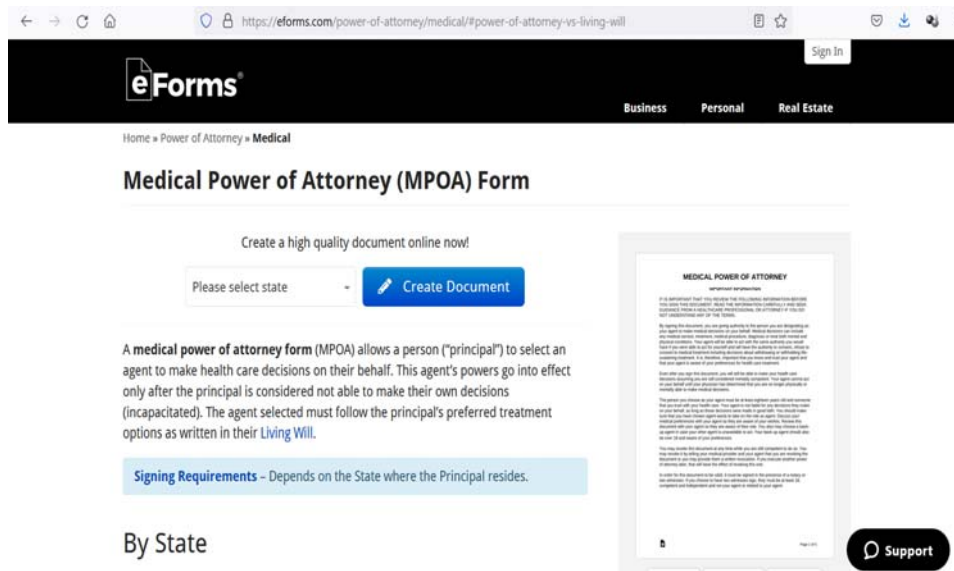


Figure 6. Medical power of Attorney, e-Forms website (<https://eforms.com/>)

The genre examined here, **the medical power of attorney**, is increasingly being filled out online: it is creating a different type of relationship between the professional lawyer and the lay-person, meaning that is the principal who selects an agent to make health care decisions on their behalf.

The Table of Contents (Figure 7) in the **e-Forms website** takes the form of a bulleted list, which is one of the examples of frame markers that help to organize the structure of the text and provide a precise order to be followed aimed at enhancing knowledge and understanding. The list is a signal of elements of an online schematic text structure, indicating a precise website architecture.

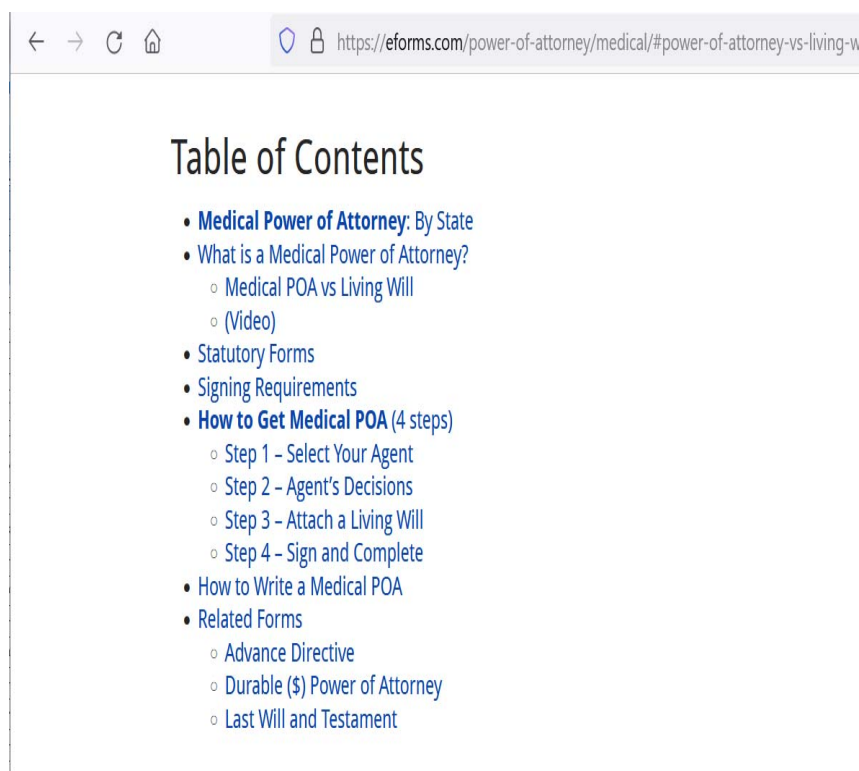


Figure 7. Table of Contents in the e-Forms website

Under the heading ‘What is a Medical Power of Attorney’, information about the difference between a living will and a medical power of attorney is given. Again, in this website we can see the use of code glosses to provide explanations of what the two legal instruments are and what they actually do.

Excerpt (7)

A **medical power of attorney (MPOA)** is a designation made to select a person, known as the “agent” or “attorney-in-fact”, to make health care decision on behalf of someone else (“principal”). The power of attorney goes into effect after a licenced physician has deemed the principal incapable of making decisions for themselves. It’s recommended for a person that makes a medical power of attorney to also create a **living will** to write their treatment preferences for an agent to follow.

#### Medical POA vs Living Will

A **medical power of attorney** lets a person select their preferred treatment options **with** the use of choosing and agent to carry out their wishes. The agent will have full authority to make any type of decision to prolong or withdraw life-sustaining treatment.

A **living will** allows a person to select their preferred treatment option **without** the use of an agent. A living will directs medical staff their intentions to prolong or withdraw life-sustaining treatments depending on their condition. (emphasis in the website)

A 3-minute YouTube video follows with explanations and guidelines on how to create a medical power of attorney. As in the previous website, explanations are given through the use of questions asked by the speaker in the video, which create a direct bond with the viewers and provide explanations of the legal instrument which is going to be created by following the guidelines in the website. What is a medical power of attorney? How should you create a medical power of attorney? According to Murray photographs and videos are generally perceived by audiences as “showing the truth”, as opposed to making an appeal by verbal means to persuade or manipulate the audience (Murray, 2014, p. 69).

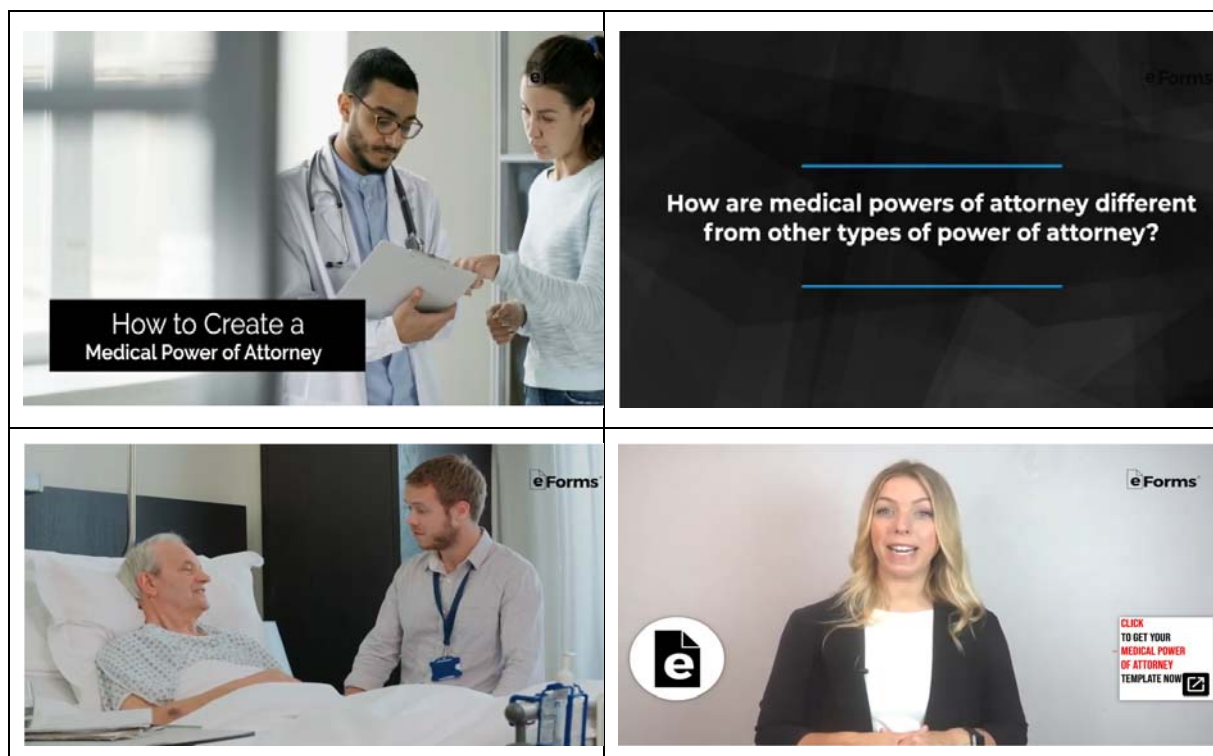


Figure 8. Some frames from the video in <https://eforms.com/>

In the modern legal landscape, the role of visual evidence has become increasingly prominent. While verbal arguments are clearly attempts to persuade or manipulate, the perception of visual evidence as more objective and truthful has important implications for legal education and practice. Despite the legal profession being traditionally

associated with written documents and oral arguments, as society becomes more visually oriented, the legal field must adapt to remain effective in communication. Murray argues that “visual has become the ‘new normal’ in communication, and legal rhetorical communication in law school and law practice must not let itself fall behind the times” (Murray, 2014).



Figure 9. Steps on How to Get Medical POA

Figure 9 shows the four steps necessary to create a medical power of attorney in the e-forms website. They are further exemplified using strips which explain how to select an agent, what decisions an agent may take, how to attach a living will and finally, how to sign and complete the document.

In short, it is a visual guide on how to create a medical power of attorney. The first image shows a person thoughtfully considering a list of trusted individuals: choosing a healthcare agent is a crucial first step in creating a medical power of attorney. This individual will make medical decisions on users' behalf if they become incapacitated. Therefore, users must consider someone who understands their values and wishes, who is reliable and trustworthy, who can handle stressful situations and who is willing to advocate for users' healthcare preferences. In Step 2 (Figure 10) the image shows a document outlining various medical scenarios and treatment options. This clearly specifies the types of decisions the agent can make, such as consenting to or refusing medical treatment, selecting healthcare facilities and providers, accessing users' medical records, and finally making end-of-life care decisions. Here users need to be explicit about any limitations they want to place on their authority.

In Step 3 (Figure 11) a living will complements the medical power of attorney by outlining users' specific wishes for end-of-life care. It typically includes preferences for life-sustaining treatments, pain management and organ donation. Attaching this document provides clear guidance to the agent and medical team. Finally in Step 4, showing a person signing the medical power of attorney with witnesses present, it is necessary to sign the document in the presence of witnesses or a notary public (requirements vary by state), to ensure agents sign an acceptance of their role, to distribute copies to agents, healthcare providers, and family members and to store the original in a safe, accessible location.

The key point is that a medical power of attorney is a powerful legal tool that ensures users' healthcare wishes are respected. By following these steps, helped by clear visual representations, users can better understand and communicate their intentions for future medical care.

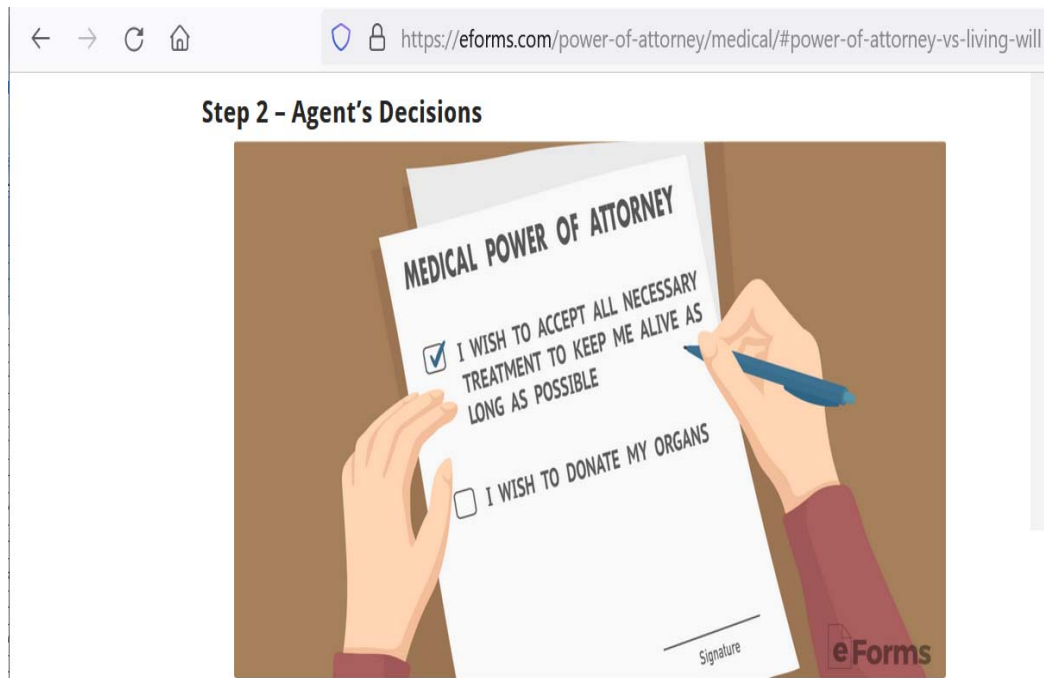


Figure 10. Step 2-Agent's decisions

In the evolving landscape of legal practice, professionals and practitioners are progressively recognizing the power and the functions of visual communication. As Murray (2014) wisely observes, the instruments of legal practice in the future will be highly visual. This shift towards visual representation in law is not purely a trend but a fundamental change in how legal information and practice are transmitted and understood. Visual aids such as infographics, diagrams, and interactive displays are becoming essential tools for lawyers, and legal practitioners in general, to explain complex legal concepts, present evidence, and construct compelling and persuasive arguments in a more accessible and engaging manner.

The integration of visual elements such as colour, graphics, photographs, embedded videos, active links, depictions (Murray, 2014, p. 65) in legal practice aligns with the principles of visual rhetoric, which emphasize the use of images and design to persuade and inform audiences. This approach is specifically helpful in today's information-rich social context where people do not pay too much attention to events, and the ability to rapidly grasp complex ideas and think about intricate issues is crucial. Through visual rhetoric, legal professionals can enhance their communication with clients, judges, and juries, making legal processes and procedures more transparent, clear, and comprehensible. As the legal field goes on to embrace technology and innovation and apply them to legal documents, the ability to create and interpret visual legal tools will probably become a key competency for lawyers of the future.

### Step 3 – Attach a Living Will



A **living will** is a highly recommended option to be attached to any medical power of attorney. In addition to having someone speak on their behalf, a **living will outlines a person's end-of-life treatment selections**.

For example, if a person should become in an incapacitated state with no chance for a cure, they can select to withhold life-sustaining methods to keep them alive. In addition, it allows the selection for organ donation and other post-death options.

Figure 11. Step 3-Attach a living will

In professional communication, verbal rhetoric plays a crucial role in conveying ideas effectively. One important tool in verbal rhetoric is the exemplification marker, such as “for example”. This phrase serves as a bridge between a general concept and a specific instance, helping the audience grasp complex ideas more easily. By providing concrete examples, speakers and writers can illustrate their points more vividly, making their message more relatable and memorable. Brief reformulations and exemplifications help to contribute to the creation of coherent, reader-friendly prose while conveying the writer’s audience-sensitivity and relationship to the message (Hyland, 2007, p. 266).

Visual rhetoric, on the other hand, utilizes non-verbal elements to communicate, persuade, and enhance understanding in clients and users. These non-verbal elements usually include images, graphs, charts, infographics, and other visual representations that support, explain, or complement verbal communication. Visual rhetoric is very effective in professional settings and environments since it can quickly transmit complex information, emphasize key points, and engage and attract the clients on multiple levels. By combining verbal and visual rhetoric, professionals can create more impactful presentations, reports, and other communications or documents that effectively convey their message.

These principles are particularly relevant when drafting living wills, where clarity and empathy are paramount for better understanding. When drafting a living will, it is advisable to use language that is legally precise and easily comprehensible at once to healthcare practitioners, family members, and other readers. This is where reformulation comes into play. By paraphrasing complex medical or legal concepts in simpler terms and providing concrete examples, users can guarantee that their wishes are clear and unambiguous. For instance, instead of simply stating a preference for “no extraordinary measures”, one might elaborate with specific examples such as “I do not wish to be placed on a ventilator or receive cardiopulmonary resuscitation (CPR)”. These details help to exclude confusion and provide clear and transparent guidance for medical professionals and practitioners.

The use of exemplifications and reformulations in living wills also serves to humanize the document, reflecting the writer’s stance, personality and values. This private and human approach can be exceptionally comforting and

reassuring to family members who may be faced with difficult decisions. By incorporating brief anecdotes or explanations for certain difficult choices about end of life, the writer creates a more comprehensive picture of their wishes and the reasoning behind them. This approach not only clarifies the writer's intentions but also demonstrates their thoughtful and sympathetic consideration of the impact that family members' decisions may have on patients, ultimately creating a more empathetic and effective legal text.

Thus, it can certainly be affirmed that popularization also “regards the field of law, where technical concepts need to be reframed and recontextualized for a more general public” (Anesa, 2016, p. 74), with the process of text production or recontextualization in which explanatory structures play an important role in the communication of legal information.

In the world of law, there are many complex ideas and issues that can be complicated for the average person to understand. To summarize, here is how popularization works in online living wills:

- 1) Simple language: Instead of using legal jargon, or legalese, online living wills use everyday words and phraseology.
- 2) Clear explanations: Each section of the living will is explained in plain terms, so users know exactly what they are deciding.
- 3) Examples: Real-life scenarios are often supplied to help users understand how their choices might work.
- 4) Visual aids: Some online living will services use diagrams, pictures, strips or videos to explain complex medical procedures or legal concepts.
- 5) Step-by-step guidance: The process of drafting a living will is broken down into smaller steps, with clear instructions for each stage.

By making living wills more accessible online, more people can make informed decisions and choices about their future health care. This is important because it ensures that their wishes are respected, even if they are unable to communicate them.

## 6. Conclusions

In today's digital age, legal documents are increasingly moving online, including important end-of-life planning tools like living wills. As professionals in the legal field, it is crucial to understand how language is used in these online documents, particularly how the concept of metadiscourse helps writers communicate with their readers about the content and structure of a text.

When examining online living wills, we can observe various metadiscourse elements that help guide readers through these complex legal documents. These elements serve to organize the text, engage the reader, and clarify the author's stance. Here are some key aspects of metadiscourse that might be encountered in online living wills:

- 1) Transitions: Words like “firstly”, “moreover”, and “in conclusion” help structure the document and guide the reader through different sections.
- 2) Frame markers: Phrases such as “The purpose of this document is...” or “This living will covers...” explicitly state the goals and organization of the text.
- 3) Endophoric markers: References like “as mentioned above” or “see section 3” direct readers to other parts of the document for additional information.
- 4) Evidentials: Citations or references to legal statutes or medical guidelines lend authority to the document's content.
- 5) Code glosses: Explanations or definitions of legal terms ensure that readers understand complex concepts.
- 6) Attitude markers: Words like “unfortunately” or “importantly”, or “in the unlikely circumstance” in many of the examples of medical powers of attorney analysed (Giordano, 2019, 2021) convey the author's perspective on certain issues.
- 7) Self-mentions: The use of “I” or “my” in statements of personal wishes and preferences such as in this performative act of a health power of attorney “**I** give my attorney(s) the AUTHORITY to make any personal care decision for **me** that **I** am mentally incapable of making for myself, including the giving or refusing of consent to any matter to which the *Health Care Consent Act, 1996* applies, subject to the *Substitute Decision Act, 1992* and any instructions, conditions or restrictions contained in this form” (Giordano, 2019).
- 8) Engagement markers: Direct addresses to the reader, such as “you” or “your healthcare agent” create a connection with the audience.

Understanding these metadiscourse elements can help legal professionals craft more effective online living wills and assist clients in navigating these important documents. By recognizing how language is used to guide, persuade, and clarify, it can guarantee that online living wills serve their purpose of communicating end-of-life wishes and choices clearly and successfully.

This shift towards visual communication in legal contexts presents both challenges and opportunities. On the one hand, it requires legal professionals to develop new skills in creating, interpreting, and presenting visual evidence. On the other hand, it offers powerful tools for conveying complex information and influencing users.

To utilize visual elements in the right manner, legal professionals must understand the principles of visual legal rhetoric and visual narrativity. This involves learning how to construct compelling visual arguments, and how to integrate visual elements faultlessly into legal presentations and documents.

In law practice, visual aids and tools can improve client communication, strengthen negotiations, and make legal documents more accessible to non-experts, as is the case with living wills.

As the legal profession and practice continue to develop, adopting visual communication strategies will be crucial for the attainment of clear and transparent documents. By recognizing the power of visual tools and developing the skills to use them efficiently, legal professionals can enhance their ability to communicate, persuade, and eventually serve justice in a world which is becoming progressively a visual world.

The COVID-19 pandemic has substantially modified our society, affecting not only how people communicate but also how they view life and death and deal with certain ethical issues. This global health crisis has brought about changes in people's attitudes towards life and their future planning, particularly in relation to living wills. These documents become crucial when individuals are unable to make medical decisions for themselves. The pandemic has intensified awareness of the importance of planning end-of-life care. During the pandemic, many people experienced an amplified sense of vulnerability and exposure and an increased awareness of life's fragility and instability. This change in perspective led to more individuals considering their mortality and the potential need for end-of-life care. As a result, there has been an increasing interest in drafting living wills.

The democratization of new media, or the widespread availability of digital platforms, has played a significant role in this context. Online resources and digital tools now make it easier for people to access information about living wills and even create them automatically online. This accessibility and ease of understanding of the issue of end-of-life care has contributed to a wider understanding and adoption of these important texts.

Online living wills have become increasingly popular and widespread due to their convenience and ease of use. Many websites and apps now offer services to create, store, and share living wills digitally, as the online living will presented in this study.

The pandemic has also highlighted the importance of clear communication about one's healthcare wishes and choices. Many family members faced difficult decisions during COVID-19 hospitalizations, accentuating the value of having predetermined guidelines prepared. By incorporating images, videos, infographics, strips, and colour schemes, web designers can create a more engaging and comprehensible experience for users. For instance, icons representing different medical procedures or colour-coded sections for various types of decisions can help guide users through the online document more efficiently. Acting as cognitive aids, these visual cues are another key component of popularization discourse making it easier for individuals to process and retain the information presented. The COVID-19 pandemic has not only changed how we interact with media (Garzone, 2023) but has also profoundly impacted our approach to future life planning. The increased focus on living wills reflects visible changes in how people are preparing for the future, since online tools play a crucial role in this context.

#### **Acknowledgments**

Not applicable.

#### **Authors' contributions**

Not applicable.

#### **Funding**

Not applicable.

#### **Competing interests**

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.



**Informed consent**

Obtained.

**Ethics approval**

The Publication Ethics Committee of the Canadian Center of Science and Education.

The journal's policies adhere to the Core Practices established by the Committee on Publication Ethics (COPE).

**Provenance and peer review**

Not commissioned; externally double-blind peer reviewed.

**Data availability statement**

The data that support the findings of this study are available on request from the corresponding author. The data are not publicly available due to privacy or ethical restrictions.

**Data sharing statement**

No additional data are available.

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