

# What Am I Missing?

By: Vincent J. Russo

**John:** I do not understand why I need to make things so complicated. If anything should happen to me, my wife of 40 years, Sally, will take care of me. She knows what is best for me.

**Sam:** Well, what happens if you are in a car accident or have a stroke?

**John:** Sally will step in and make those decisions.

**Reality:** Without Advance Directives (Health Care Proxy and Durable Power of Attorney), Sally will not be able to make those decisions. A Guardianship will have to be commenced which is time consuming, expensive and invasive.

**Sam:** Do you have a Living Will?

**John:** I don't need one. For goodness sake, first of all, I am perfectly healthy and if something should happen to me, Sally would decide whether to "pull the plug."

**Reality:** The hospital is not bound to follow the instructions of Sally. There must be "clear and convincing evidence" of one's wishes regarding the termination or withdrawal of extraordinary life sustaining treatment. A Living Will can clearly state your desires so that they will be followed if the need arises.

**Sam:** What happens if you need long term care at home or in a worst case, have to go into a nursing home, how will you pay for it? Have you made arrangements?

**John:** I have my assets held jointly with Sally so she can do what she needs to do.

**Reality:** Sally may not have access to all of the assets to pay the bills. Sally does not have access to John's 401K plan or the life insurance policy owned by him. Further, if Sally needs to implement Medicaid planning, her hands may be tied because she does not have the ability to transfer the home which is held jointly or any assets that are solely in John's name. This can be a disaster resulting in unnecessarily spending down thousands of dollars for his care.

**Sam:** John, is your plan really going to work?

**John:** Well, I'll think about it but I think I am ok.