
INTRODUCTION TO YOUR NEW YORK ADVANCE DIRECTIVE

This packet contains two legal documents that protect your right to refuse medical treatment you do not want, or to request treatment you do want, in the event you lose the ability to make decisions yourself:

1. The **New York Health Care Proxy** lets you name someone to make decisions about your medical care—including decisions about life support—if you can no longer speak for yourself. The Health Care Proxy is especially useful because it appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life.

2. The **New York Living Will** lets you state your wishes about medical care in the event that you develop an irreversible condition that prevents you from making your own medical decisions. The Living Will becomes effective if you become terminally ill, permanently unconscious or minimally conscious due to brain damage and will never regain the ability to make decisions.

Partnership for Caring recommends that you complete both of these documents to best ensure that you receive the medical care you want when you can no longer speak for yourself.

Note: These documents will be legally binding only if the person completing them is a competent adult (at least 18 years old).

Whom should I appoint as my Health Care agent?

An agent is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. The person you name as your agent should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you. Your agent can be a family member or a close friend whom you trust to make serious decisions.

The person you appoint as your agent **cannot** be:

1. an operator, administrator or employee of a health care facility in which you are a resident or patient, or to which you have applied for admission, at the time you sign your proxy, unless that person is a relative by blood, marriage or adoption;
2. a physician, if that person also acts as your attending physician; or
3. anyone who is already an agent for ten or more people, unless that person is related to you by blood, marriage or adoption.

You can appoint a second person as

your alternate agent. The alternate will step in if the first person you name as agent is unable, unwilling or unavailable to act for you.

How do I make my New York Health Care Proxy legal?

The law requires that you sign and date your Health Care Proxy in the presence of two adult witnesses. The witnesses must sign a statement in your Health Care Proxy to confirm that you signed the document willingly and free from duress. The person you name as your agent or alternate agent cannot act as a witness.

In addition, if you are a resident in a facility operated or licensed by the office of mental health or the office of mental retardation and developmental disabilities, there are special witnessing requirements. Contact Partnership for Caring for more information.

Partnership for Caring also recommends that you avoid having your relatives, or other beneficiaries of your estate, act as witnesses.

Note: You do not need to notarize your New York Health Care Proxy.

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COMPLETING YOUR NEW YORK HEALTH CARE PROXY (CONTINUED)

Should I add personal instructions to my New York Health Care Proxy?

We recommend that you not add any statements because you might unintentionally restrict your agent's power to act in your best interest. One of the strongest reasons for naming an agent is to have someone who can respond flexibly as your medical situation changes and deal with situations that you did not foresee.

Instead, we urge you to talk with your agent about your future medical care and describe what you consider to be an acceptable "quality of life." If you want to record your wishes about specific treatments or conditions, you should use the New York Living Will.

What if I change my mind?

You may revoke your Health Care Proxy by notifying your agent or a health care provider orally or in writing of your revocation, or by any other act that clearly shows your intent to revoke the document. A physician who is informed of your revocation must record the revocation in your medical record and notify the agent and any medical staff responsible for your care.

How do I make my New York Living Will legal?

The New York Living Will is authorized by law created by New York courts, not by legislation. For this reason, there are no specific requirements guiding its use. Partnership for Caring recommends that you follow the witnessing procedures established in the Health Care Proxy Act and sign your Living Will in the presence of two adult witnesses, who should not be beneficiaries of your estate.

Note: You do not need to notarize your New York Living Will.

Can I add personal instructions to my Living Will?

Yes. You can add personal instructions in the part of the document called “Other directions.” For example, if there are any specific forms of treatment that you wish to refuse that are not already listed on the document, you may list them here. Also, you can add instructions, such as “I do not want to be placed in a nursing home,” or “I want to die at home.”

If you have appointed an agent, it is a good idea to write a statement such as,

“Any questions about how to interpret or when to apply my Living Will are to be decided by my agent.”

It is important to learn about the kinds of life-sustaining treatment you might receive. Consult your doctor or order the Partnership for Caring booklet, “Advance Directives and End-of-Life Decisions.”

What if I change my mind?

If you decide to cancel your Living Will, follow the same procedures outlined for revoking your Health Care Proxy.

AFTER YOU HAVE COMPLETED YOUR DOCUMENTS

1. Your New York Health Care Proxy and New York Living Will are important legal documents. Keep the original signed documents in a secure but accessible place. Do not put the original documents in a safe deposit box or any other security box that would keep others from having access to them.
2. Give photocopies of the signed originals to your agent and alternate agent, doctor(s), family, close friends, clergy and anyone else who might become involved in your health care. If you enter a nursing home or hospital, have photocopies of your documents placed in your medical records.
3. Be sure to talk to your agent and alternate, doctor(s), clergy, family and friends about your wishes concerning medical treatment. Discuss your wishes with them often, particularly if your medical condition changes.
4. If you want to make changes to your documents after they have been signed and witnessed, you must complete new documents.
5. Remember, you can always revoke one or both of your New York documents.

6. Be aware that your New York documents will not be effective in the event of a medical emergency. Ambulance personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are given a separate order that states otherwise. These orders, commonly called “nonhospital do-not-resuscitate orders,” are designed for people whose poor health gives them little chance of benefiting from CPR. These orders must be signed by your physician and instruct ambulance personnel not to attempt CPR if your heart or breathing should stop. Partnership for Caring does not distribute these forms. If you would like to receive a nonhospital do-not-resuscitate form, speak to your physician.

If you would like more information about this topic contact Partnership for Caring or consult the Partnership for Caring booklet “Cardiopulmonary Resuscitation, Do-Not-Resuscitate Orders and End-Of-Life Decisions.”

