

In April 2010, New York State passed the Family Health Care Decisions Act, which allows family members to make healthcare decisions, including decisions about the withholding or withdrawal of life sustaining treatments on behalf of patients who lose their ability to make such decisions and have not prepared advance directives regarding their wishes.

The Law does not apply to those who have Healthcare Proxies in place or are competent to make their own decisions.

In many cases, the family's decision must have the concurrence of the physician. Hospitals must adopt written policies identifying the training and credentials of professionals qualified to provide the necessary concurring opinions. The law sets out a list of persons who may act as the surrogate decision makers. In order of priority: Court appointed Guardian; spouse or domestic partner; a child older than 18; a parent, sibling, or a close adult friend or relative familiar with the patient's personal, religious, and moral views regarding healthcare.

HEALTH CARE PROXIES AND LIVING WILLS - CONSIDERATIONS:

In a Health Care Proxy or Living Will, if the principal wants the agent to have some flexibility despite the directions given, one of the following may be included:

Total Flexibility: It is okay for my agent to change any of my medical decisions if my doctors think it is best for me at that time.

Some Flexibility: It is okay for my agent to change some of my medical decisions if the doctors think it is best. But, these are some wishes I never want changed: _____

Other sample directions:

If I am so sick that I may die soon:

Try all life support treatments that my doctors think might help. If the treatments do not work and there is little hope of getting better, I want to stay on life support machines even if I am suffering.

Try all life support treatments that my doctors think might help. If the treatments do not work and there is little hope of getting better, I do NOT want to stay on life support machines. If I am suffering, I want to stop.

I do not want life support treatments, and I want to focus on being comfortable. I prefer to have a natural death.

I want my medical decision maker to decide for me.

I am not sure.

A Living Will, like the basic Health Care Proxy, may address other medical procedures; just add in another paragraph(s). Sometimes, religious beliefs play a role in a principal stating that s/he

does not want a particular medical procedure, even if it would save his/her life. Possible considerations include antipsychotic medication, electric shock therapy, antibiotics, psychosurgery, dialysis, organ transplantation, blood transfusions, abortion, and sterilization. Consult the glossary on this page for an explanation of some of the terms.

SAMPLE CLAUSES:

I do not want my life to be artificially prolonged, unless there is some hope that both my mental and physical health will be restored. I do not want life-support systems provided or continued if the burden of the treatment outweighs the benefits. In making this determination, I want my agent to consider the quality of my life if it is extended by these treatments.

I want to live as long as possible, therefore I want any and all medical treatment (including life-support systems) that will extend my life and postpone my death.

If my doctor diagnoses that I need a blood transfusion or blood products, it is my choice, based on my religious beliefs and regardless of my condition, that such treatment absolutely not be provided even if the lack of treatment ultimately will lead to my death.

If I am diagnosed as having incurable cancer and there is no hope that my condition will improve, and further chemotherapy and radiation serve only to prolong my life for a short time, I direct that all chemotherapy and radiation be withheld or discontinued, unless and only if it serves to provide me with comfort care or to alleviate pain.

If at all possible, and the costs are not unduly burdensome, I declare that I want to die at home (or at least remain at home as long as possible) with appropriate medical, nursing, social, and emotional support and any medical equipment or treatment needed to keep me comfortable.

I authorize my agent to take whatever steps are necessary or advisable to enable me to remain in my home as long as it is reasonable under the circumstances. Specifically, I do not want to be hospitalized or placed in a nursing home as long as it is reasonable to maintain me in my home.