

Advance Care Planning

Questions & Answers

What do I do now that I have completed my Health Care Proxy?

Carry a copy with you. In case you are in an accident and taken to the hospital, emergency personnel will look for your identification. Place your health care proxy between your identification card and your insurance card – this is where someone will look first. You can fold it up or use a [wallet-size form](#).

Keep a copy in your home. If you have a place where you keep important documents, place a copy there, too. But, remember it should be easily accessible. In a sudden emergency, having a health care proxy in a safe deposit box is not much help.

Make extra copies. All copies are as valid as the original. The following people should each have a copy:

- Your agent and alternate agent.
- Your physician(s) and other medical providers
- Your next of kin (closest family member). In the event of an emergency your next of kin will be called. This person should be able to tell who your agent is, so the hospital can contact your agent.
- Anyone who is involved in your care or managing of your affairs, such as family members, caregivers and nursing home staff, your attorney.

My lawyer has offered to prepare my health care proxy. Should I let her?

You do not need a lawyer to complete a health care proxy form in New York State. The version issued by the New York State Department of Health is the most commonly recognized form in New York State. It is the easiest for staff in hospitals or other clinical settings to consult because they know it well.

Is my New York State health care proxy valid when I travel to other states?

Bring a copy of your health care proxy with you when you travel. There is no federal form that covers all 50 states – each state has its own form. The New York State Health Care Proxy is not a legal document in other states, but it may be honored in the event of an emergency. It documents your decision to name a specific person to represent you at a time when you cannot represent yourself.

My husband does not have a health care proxy. Can I make decisions for him if there is an emergency?

New York State recognizes there are situations when medical decisions must be made and you are unable to make them for yourself. If you do not have a health care proxy or other advance directive, the [Family Health Care Decisions Act](#) (FHCDCA) applies.

The FHCDA is a New York State law which assigns a health care surrogate from a priority list. The surrogate is authorized to make medical decisions for the person who is unable to do so for him or herself.

The FHCDA is not intended to replace the New York State health care proxy or your advance care planning process. It is a way to make it possible for someone close to the patient to make medical decisions when basic advance care planning has not occurred and decisions must be made.

The FHCDA identifies the following list of people, in order of priority, who may act as a surrogate decision maker for the incapable patient:

1. an MHL Article 81 court-appointed guardian (if there is one)
2. the spouse or domestic partner (as defined in the FHCDA)
3. an adult child
4. a parent
5. a brother or sister
6. a close friend

It authorizes the surrogate with the highest priority to decide about treatment based on the patient's wishes, including the patient's religious and moral beliefs, or, if the patient's wishes are not reasonably known and cannot with reasonable diligence be ascertained, based on the **patient's best interests**.

I appointed my husband as my health care agent but I am now divorced from him. Can he still act as my health care agent?

If you have named your spouse as your health care agent and you later become divorced or legally separated, your former spouse can no longer be your agent by law, unless you state otherwise. If you would like your former spouse to remain your agent, you may note this on your current form and date it, or you can complete a new form naming your former spouse.

What happens if I complete the health care proxy and later change my mind and want a different person as my health care agent?

If you would like to appoint a different health care agent, at any time, all you have to do is complete a new form. Make sure your physician and all others who matter have a copy of the updated form. If two different forms signed by you appear in the same clinical setting, the document with the most recent date will be the valid one.

If you have additional questions about advance care planning, please [contact us](#).