



A Division of the New York Legal Assistance Group

LegalHealth
Professional Partnership to Promote Well Being[®]

This is general information, not legal advice. Patients should consult an attorney for specific guidance.

Advance Directives

Health Care Proxy • Living Will

- **Health Care Proxy:** In New York State, a person can appoint someone they trust, such as a close friend or family member, to make health care decisions on their behalf should they be unable to make those decisions for themselves. In the event that the appointed agent is needed to make decisions (this happens only if they are designated by a health care proxy AND the patient is unable to make health care decisions for themselves), health care practitioners must follow the agent's wishes as if they were the patient's.
- **Living Will:** A living will is used to address specific medical decisions one has in regards to their care. Similar to a health care proxy, it is used when a person is unable to make medical decisions for themselves, but with a living will, no one is designated as an agent and the medical wishes and decisions of the patient are expressed and specific within the form. For example, in a living will one can make a specific decision about antibiotics and pain relief, with a Health Care Proxy, one can choose to appoint someone to make that decision for them.

Who can complete advance directives?

Everyone over the age of 18 may want to complete a healthcare proxy so s/he can name who s/he wants to make medical decisions in the event that s/he loses capacity.

Can someone fill out both a health care proxy and a living will?

Yes. A patient should always have in depth conversations about their medical wishes with the person they want to elect as their agent in their health care proxy, but by also filling out a living will, their medical wishes will be clearly documented.

Where can I find a health care proxy or living will?

NYLAG's [Total Life Choices](#) has developed this step-by-step [guide](#)

What does someone do with their healthcare proxy after it is completed?

One can give a copy to their treating physicians to be placed in your medical records; one should give a copy to their named agent; and keep the original with other important documents.

What if someone did not fill out a health care proxy and is unable to make medical decisions for themselves?

If someone is unable to make health care decisions for themselves and has not filled out a health care proxy or living will, a close friend or family member may serve as a "surrogate." Surrogates are similar to agents except that they are only allowed to make decisions for the patient if the patient is in a hospital, nursing home, or hospice care.

More questions? Refer patients for an appointment with a LegalHealth attorney

www.legalhealth.org

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