



NEW YORK STATE SENATOR

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Who Will Decide? Honoring Your Health Care Choices

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| ISSUE: **HEALTH CARE**

Who will make your health care decisions should you become unable to do so? It's estimated that four out of five Americans do not have any written health care directives to help their families make medical decisions for them if they become incapacitated.

New York's Health Care Proxy Law protects you and your family by ensuring that your wishes are carried out. The law allows you to appoint someone you trust (your "agent" or "proxy") to make health care decisions for you. Hospitals, nursing homes, doctors and other health care providers must follow your Proxy's decisions as if they were your own.

A Health Care Proxy Form is a free, legally binding document that requires your signature and that of two witnesses. It does not require a lawyer. In addition to naming a proxy, you may also list on the form specific instructions about the kind of health care you do or do not want. You may give your proxy as little or as much authority as you choose.

New York does not have a "living will" statute, but the state's highest court has endorsed them if they provide "clear and convincing evidence" of the patient's wishes. According to the NY Bar Association, in order to make a living will binding in New York, it must be accompanied by a Health Care Proxy.

Unlike most Living Wills, a Health Care Proxy is not limited to cases of terminal illness. If you cannot make or communicate decisions because of a temporary or permanent illness or injury, a Health Care Proxy helps you keep control over health care issues that are important to you.