

Section 17

Advance Care Planning

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An Opportunity for Planning

CDPHP is committed to providing our members with information and support in planning for their future medical care and treatment. Advance planning is voluntary and may be done by completing the enclosed advance directive forms, i.e., the health care proxy or living will.

Members have the right to refuse medical treatment they do not want or to request treatment that they do want in the event they lose the ability to make decisions for themselves.

If a member does not have advance directives and their wishes cannot be determined regarding the initiation or withdrawal of life-sustaining treatments, life-sustaining treatment must be provided.

Practitioners should encourage patients to learn about advanced directives, cardiopulmonary resuscitation, and an order not to resuscitate so they can make informed decisions about their future medical care and treatment. We urge you to share the following information and forms with your patients.

Planning in Advance for Your Medical Treatment

Your Right to Decide About Treatment

Adults in New York state have the right to accept or refuse medical treatment, including life-sustaining treatment. Our Constitution and state laws protect this right. This means that you have the right to request or consent to treatment before it has started, and to have treatment stopped once it has begun.

Planning in Advance

Sometimes because of illness or injury, people are unable to talk to a doctor and decide about treatment for themselves. You may wish to plan in advance to make sure that your wishes about treatment will be followed if you become unable to decide for yourself for a short or long time period. If you do not plan ahead, family members or other people close to you may not be allowed to make decisions for you and follow your wishes.

Health Care Proxy

In New York state, appointing someone you can trust to decide about treatment if you become unable to decide for yourself is the best way to protect your treatment wishes and concerns. You have the right to appoint someone by filling out a form called a **health care proxy**. A copy of the form and information about the **health care proxy** are available in Appendix I.

Living Will

If you have no one you can appoint to decide for you, or you do not want to appoint someone, you can give specific instructions about treatment in advance. Those instructions can be written, and are often referred to as a **living will**.

You should understand that the general instructions about refusing treatment, even if written down, may not be effective. Your instructions must clearly cover the treatment decisions that must be made. For example, if you just write down that you do not want "heroic measures," the instructions may not be specific enough. You should indicate the kind of treatment that you do not want, such as a respirator or chemotherapy, and describe the medical condition when you would refuse the treatment, such as when you are terminally ill or permanently unconscious with no hope of recovering. You can give instructions orally by discussing your treatment wishes with your doctor, family members, or others close to you.

Putting things in writing is safer than simply speaking to people, but neither method is as effective as appointing someone to decide for you. It is often hard for people to know in advance what will happen to them or what their medical needs will be in the future. If you choose someone to make decisions for you, that person can talk to your doctor and make decisions that they believe you would have wanted or that are best for you, when needed. If you appoint someone and also leave instructions about treatment in a **living will**, in the space provided on the health care proxy form, or in some other manner, the person you select can use these instructions as guidance to make the right decision for you.

Deciding About Cardiopulmonary Resuscitation and "Do Not Resuscitate" Orders

Your right to decide about treatment also includes the right to decide about cardiopulmonary resuscitation (CPR). CPR is an emergency treatment to restart the heart and lungs when your breathing or circulation stops.

Sometimes doctors and patients decide in advance that CPR should not be provided, and the doctor gives the medical staff an order not to resuscitate (DNR order). A DNR order is not a basis to withhold or withdraw any medical treatment other than CPR. If your physical or mental condition prevents you from deciding about CPR, someone you appoint, your family members, or others close to you can decide.

Refer to Appendix IV, **Deciding about CPR**, for more detail.

Medical Orders for Life-Sustaining Treatment (MOLST)

The Medical Orders for Life-Sustaining Treatment (MOLST) form allows the member, when they are seriously ill or near end of life, to document with their treating physician actionable medical orders for life sustaining treatment, including resuscitation, intubation, administration of fluids/nutrition, antibiotics, and other time-limited treatments of care instructions. NYS DOH approved the MOLST form (see Appendix VI) as a portable non-hospital DNR and "do not intubate" (DNI) order that covers the patient throughout the health care continuum, e.g., outpatient and inpatient settings. MOLST can be used for patient/surrogate consent to a DNR or other life-sustaining treatment order. MOLST is reviewed periodically with the patient/surrogate and physician or whenever a member's need for life-sustaining treatment changes. A NYS DOH-approved MOLST form and MOLST instructions and checklists for ethical framework and legal requirements can be found on the NYS DOH website.

Practitioners should document discussions with members about the Health Care Proxy Form and MOLST in their medical record. Relevant information should be documented in a prominent location in the medical record, with a copy of the completed form also filed in the medical record.

Appendix I Health Care Proxy

HEALTH CARE PROXY

Appointing Your Health Care Agent in New York State

The New York Health Care Proxy Law allows you to appoint someone you trust — for example, a family member or close friend — to make health care decisions for you if you lose the ability to make decisions yourself. By appointing a health care agent, you can make sure that health care providers follow your wishes. Your agent can also decide how your wishes apply as your medical condition changes. Hospitals, doctors and other health care providers must follow your agent's decisions as if they were your own. You may give the person you select as your health care agent as little or as much authority as you want. You may allow your agent to make all health care decisions or only certain ones. You may also give your agent instructions that he or she has to follow. This form can also be used to document your wishes or instructions with regard to organ and/or tissue donation.

About the Health Care Proxy Form

This is an important legal document. Before signing, you should understand the following facts:

1. This form gives the person you choose as your agent the authority to make all health care decisions for you, including the decision to remove or provide life-sustaining treatment, unless you say otherwise in this form. "Health care" means any treatment, service or procedure to diagnose or treat your physical or mental condition.
2. Unless your agent reasonably knows your wishes about artificial nutrition and hydration (nourishment and water provided by a feeding tube or intravenous line), he or she will not be allowed to refuse or consent to those measures for you.
3. Your agent will start making decisions for you when your doctor determines that you are not able to make health care decisions for yourself.
4. You may write on this form examples of the types of treatments that you would not desire and/or those treatments that you want to make sure you receive. The instructions may be used to limit the decision-making power of the agent. Your agent must follow your instructions when making decisions for you.
5. You do not need a lawyer to fill out this form.
6. You may choose any adult (18 years of age or older), including a family member or close friend, to be your agent. If you select a doctor as your agent, he or she will have to choose between acting as your agent or as your attending doctor because a doctor cannot do both at the same time. Also, if you are a patient or resident of a hospital, nursing home or mental hygiene facility, there are special restrictions about naming someone who works for that facility as your agent. Ask staff at the facility to explain those restrictions.
7. Before appointing someone as your health care agent, discuss it with him or her to make sure that he or she is willing to act as your agent. Tell the person you choose that he or she will be your health care agent. Discuss your health care wishes and this form with your agent. Be sure to give him or her a signed copy. Your agent cannot be sued for health care decisions made in good faith.
8. 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 complete a new form naming your former spouse.
9. Even though you have signed this form, you have the right to make health care decisions for yourself as long as you are able to do so, and treatment cannot be given to you or stopped if you object, nor will your agent have any power to object.
10. You may cancel the authority given to your agent by telling him or her or your health care provider orally or in writing.
11. Appointing a health care agent is voluntary. No one can require you to appoint one.
12. You may express your wishes or instructions regarding organ and/or tissue donation on this form.

Frequently Asked Questions

Why should I choose a health care agent?

If you become unable, even temporarily, to make health care decisions, someone else must decide for you. Health care providers often look to family members for guidance. Family members may express what they think your wishes are related to a particular treatment. Appointing an agent lets you control your medical treatment by:

- allowing your agent to make health care decisions on your behalf as you would want them decided;
- choosing one person to make health care decisions because you think that person would make the best decisions;
- choosing one person to avoid conflict or confusion among family members and/or significant others.

You may also appoint an alternate agent to take over if your first choice cannot make decisions for you.

Who can be a health care agent?

Anyone 18 years of age or older can be a health care agent. The person you are appointing as your agent or your alternate agent cannot sign as a witness on your Health Care Proxy form.

How do I appoint a health care agent?

All competent adults, 18 years of age or older, can appoint a health care agent by signing a form called a Health Care Proxy. You don't need a lawyer or a notary, just two adult witnesses. Your agent cannot sign as a witness. You can use the form printed here, but you don't have to use this form.

When would my health care agent begin to make health care decisions for me?

Your health care agent would begin to make health care decisions after your doctor decides that you are not able to make your own health care decisions. As long as you are able to make health care decisions for yourself, you will have the right to do so.

What decisions can my health care agent make?

Unless you limit your health care agent's authority, your agent will be able to make any health care decision that you could have made if you were able to decide for yourself. Your agent can agree that you should receive treatment, choose among different treatments and decide that treatments should not be provided, in accordance with your wishes and interests. However, your agent can only make decisions about artificial nutrition and hydration (nourishment and water provided by feeding tube or intravenous line) if he or she knows your wishes from what you have said or what you have written. The Health Care Proxy form does not give your agent the power to make non-health care decisions for you, such as financial decisions.

Why do I need to appoint a health care agent if I'm young and healthy?

Appointing a health care agent is a good idea even though you are not elderly or terminally ill. A health care agent can act on your behalf if you become even temporarily unable to make your own health care decisions (such as might occur if you are under general anesthesia or have become comatose because of an accident). When you again become able to make your own health care decisions, your health care agent will no longer be authorized to act.

How will my health care agent make decisions?

Your agent must follow your wishes, as well as your moral and religious beliefs. You may write instructions on your Health Care Proxy form or simply discuss them with your agent.

Frequently Asked Questions, *continued*

How will my health care agent know my wishes?

Having an open and frank discussion about your wishes with your health care agent will put him or her in a better position to serve your interests. If your agent does not know your wishes or beliefs, your agent is legally required to act in your best interest. Because this is a major responsibility for the person you appoint as your health care agent, you should have a discussion with the person about what types of treatments you would or would not want under different types of circumstances, such as:

- whether you would want life support initiated/continued/removed if you are in a permanent coma;
- whether you would want treatments initiated/continued/removed if you have a terminal illness;
- whether you would want artificial nutrition and hydration initiated/withheld or continued or withdrawn and under what types of circumstances.

Can my health care agent overrule my wishes or prior treatment instructions?

No. Your agent is obligated to make decisions based on your wishes. If you clearly expressed particular wishes, or gave particular treatment instructions, your agent has a duty to follow those wishes or instructions unless he or she has a good faith basis for believing that your wishes changed or do not apply to the circumstances.

Who will pay attention to my agent?

All hospitals, nursing homes, doctors and other health care providers are legally required to provide your health care agent with the same information that would be provided to you and to honor the decisions by your agent as if they were made by you. If a hospital or nursing home objects to some treatment options (such as removing certain treatment) they must tell you or your agent BEFORE or upon admission, if reasonably possible.

What if my health care agent is not available when decisions must be made?

You may appoint an alternate agent to decide for you if your health care agent is unavailable, unable or unwilling to act when decisions must be made. Otherwise, health care providers will make health care decisions for you that follow instructions you gave while you were still able to do so. Any instructions that you write on your Health Care Proxy form will guide health care providers under these circumstances.

What if I change my mind?

It is easy to cancel your Health Care Proxy, to change the person you have chosen as your health care agent or to change any instructions or limitations you have included on the form. Simply fill out a new form. In addition, you may indicate that your Health Care Proxy expires on a specified date or if certain events occur. Otherwise, the Health Care Proxy will be valid indefinitely. If you choose your spouse as your health care agent or as your alternate, and you get divorced or legally separated, the appointment is automatically cancelled. However, if you would like your former spouse to remain your agent, you may note this on your current form and date it or complete a new form naming your former spouse.

Can my health care agent be legally liable for decisions made on my behalf?

No. Your health care agent will not be liable for health care decisions made in good faith on your behalf. Also, he or she cannot be held liable for costs of your care, just because he or she is your agent.

Frequently Asked Questions, *continued*

Is a Health Care Proxy the same as a living will?

No. A living will is a document that provides specific instructions about health care decisions. You may put such instructions on your Health Care Proxy form. The Health Care Proxy allows you to choose someone you trust to make health care decisions on your behalf. Unlike a living will, a Health Care Proxy does not require that you decide in advance decisions that may arise. Instead, your health care agent can interpret your wishes as medical circumstances change and can make decisions you could not have known would have to be made.

Where should I keep my Health Care Proxy form after it is signed?

Give a copy to your agent, your doctor, your attorney and any other family members or close friends you want. Keep a copy in your wallet or purse or with other important papers, but not in a location where no one can access it, like a safe deposit box. Bring a copy if you are admitted to the hospital, even for minor surgery, or if you undergo outpatient surgery.

May I use the Health Care Proxy form to express my wishes about organ and/or tissue donation?

Yes. Use the optional organ and tissue donation section on the Health Care Proxy form and be sure to have the section witnessed by two people. You may specify that your organs and/or tissues be used for transplantation, research or educational purposes. Any limitation(s) associated with your wishes should be noted in this section of the proxy. **Failure to include your wishes and instructions on your Health Care Proxy form will not be taken to mean that you do not want to be an organ and/or tissue donor.**

Can my health care agent make decisions for me about organ and/or tissue donation?

Yes. As of August 26, 2009, your health care agent is authorized to make decisions after your death, but only those regarding organ and/or tissue donation. Your health care agent must make such decisions as noted on your Health Care Proxy form.

Who can consent to a donation if I choose not to state my wishes at this time?

It is important to note your wishes about organ and/or tissue donation to your health care agent, the person designated as your decedent's agent, if one has been appointed, and your family members. New York Law provides a list of individuals who are authorized to consent to organ and/or tissue donation on your behalf. They are listed in order of priority: your health care agent; your decedent's agent; your spouse, if you are not legally separated, or your domestic partner; a son or daughter 18 years of age or older; either of your parents; a brother or sister 18 years of age or older; a guardian appointed by a court prior to the donor's death; or another person authorized to dispose of the body.

HEALTH CARE PROXY FORM INSTRUCTIONS

Item (1)

Write the name, home address and telephone number of the person you are selecting as your agent.

Item (2)

If you want to appoint an alternate agent, write the name, home address and telephone number of the person you are selecting as your alternate agent.

Item (3)

Your Health Care Proxy will remain valid indefinitely unless you set an expiration date or condition for its expiration. This section is optional and should be filled in only if you want your Health Care Proxy to expire.

Item (4)

If you have special instructions for your agent, write them here. Also, if you wish to limit your agent's authority in any way, you may say so here or discuss them with your health care agent. If you do not state any limitations, your agent will be allowed to make all health care decisions that you could have made, including the decision to consent to or refuse life-sustaining treatment.

If you want to give your agent broad authority, you may do so right on the form. Simply write: I have discussed my wishes with my health care agent and alternate and they know my wishes including those about artificial nutrition and hydration.

If you wish to make more specific instructions, you could say:

If I become terminally ill, I do/don't want to receive the following types of treatments:....

If I am in a coma or have little conscious understanding, with no hope of recovery, then I do/don't want the following types of treatments:....

If I have brain damage or a brain disease that makes me unable to recognize people or speak and there is no hope that my condition will improve, I do/don't want the following types of treatments:....

I have discussed with my agent my wishes about _____ and I want my agent to make all decisions about these measures.

Examples of medical treatments about which you may wish to give your agent special instructions are listed below. This is not a complete list:

- artificial respiration
- artificial nutrition and hydration (nourishment and water provided by feeding tube)
- cardiopulmonary resuscitation (CPR)
- antipsychotic medication
- electric shock therapy
- antibiotics
- surgical procedures
- dialysis
- transplantation
- blood transfusions
- abortion
- sterilization

Item (5)

You must date and sign this Health Care Proxy form. If you are unable to sign yourself, you may direct someone else to sign in your presence. Be sure to include your address.

Item (6)

You may state wishes or instructions about organ and /or tissue donation on this form. New York law does provide for certain individuals in order of priority to consent to an organ and/or tissue donation on your behalf: your health care agent, your decedent's agent, your spouse, if you are not legally separated, or your domestic partner, a son or daughter 18 years of age or older, either of your parents, a brother or sister 18 years of age or older, a guardian appointed by a court prior to the donor's death.

Item (7)

Two witnesses 18 years of age or older must sign this Health Care Proxy form. The person who is appointed your agent or alternate agent cannot sign as a witness.

HEALTH CARE PROXY

(1) I, _____
hereby appoint _____
(name, home address and telephone number)

as my health care agent to make any and all health care decisions for me, except to the extent that I state otherwise. This proxy shall take effect only when and if I become unable to make my own health care decisions.

(2) Optional: Alternate Agent

If the person I appoint is unable, unwilling or unavailable to act as my health care agent, I hereby appoint _____
(name, home address and telephone number)

as my health care agent to make any and all health care decisions for me, except to the extent that I state otherwise.

(3) Unless I revoke it or state an expiration date or circumstances under which it will expire, this proxy shall remain in effect indefinitely. *(Optional: If you want this proxy to expire, state the date or conditions here.)* This proxy shall expire *(specify date or conditions)*:

(4) Optional: I direct my health care agent to make health care decisions according to my wishes and limitations, as he or she knows or as stated below. *(If you want to limit your agent's authority to make health care decisions for you or to give specific instructions, you may state your wishes or limitations here.)* I direct my health care agent to make health care decisions in accordance with the following limitations and/or instructions *(attach additional pages as necessary)*:

In order for your agent to make health care decisions for you about artificial nutrition and hydration *(nourishment and water provided by feeding tube and intravenous line)*, your agent must reasonably know your wishes. You can either tell your agent what your wishes are or include them in this section. See instructions for sample language that you could use if you choose to include your wishes on this form, including your wishes about artificial nutrition and hydration.

(5) Your Identification *(please print)*

Your Name _____

Your Signature _____ Date _____

Your Address _____

(6) Optional: Organ and/or Tissue Donation

I hereby make an anatomical gift, to be effective upon my death, of:
(check any that apply)

Any needed organs and/or tissues

The following organs and/or tissues _____

Limitations _____

If you do not state your wishes or instructions about organ and/or tissue donation on this form, it will not be taken to mean that you do not wish to make a donation or prevent a person, who is otherwise authorized by law, to consent to a donation on your behalf.

Your Signature _____ Date _____

(7) Statement by Witnesses *(Witnesses must be 18 years of age or older and cannot be the health care agent or alternate.)*

I declare that the person who signed this document is personally known to me and appears to be of sound mind and acting of his or her own free will. He or she signed (or asked another to sign for him or her) this document in my presence.

Witness 1

Date _____

Name *(print)* _____

Signature _____

Address _____

Witness 2

Date _____

Name *(print)* _____

Signature _____

Address _____



Appendix II New York State Living Will Form

I, _____, being of sound mind, make this statement as a directive to be followed if I become permanently unable to participate in decisions regarding my medical care. These instructions reflect my firm and settled commitment to decline medical treatment under the circumstances indicated below:

I direct my attending physician to withhold or withdraw treatment that merely prolongs my dying, if I should be in an **incurable or irreversible mental or physical condition with no reasonable expectation of recovery**, including but not limited to:

- (a) **a terminal condition;**
- (b) **a permanently unconscious condition; or**
- (c) **a minimally conscious condition in which I am permanently unable to make decisions or express my wishes.**

I direct that my treatment be limited to measures to keep me comfortable and to relieve pain, including any pain that might occur by withholding or withdrawing treatment.

While I understand that I am not legally required to be specific about future treatments **if I am in the condition(s) described above, I feel especially strongly about the following forms of treatment:**

- I do not want cardiac resuscitation.
- I do not want mechanical respiration.
- I do not want artificial nutrition and hydration.
- I do not want antibiotics.

However, I **do want** maximum pain relief, even if it may hasten my death.

Other directions: _____

These directions express my legal right to refuse treatment, under the law of New York. I intend my instructions to be carried out, unless I have rescinded them in a new writing or by clearly indicating that I have changed my mind.

Signed _____ Date _____

Address _____

I declare that the person who signed this document appeared to execute the living will willingly and free from duress. He or she signed (or asked another to sign for him or her) this document in my presence.

Witness 1 _____

Address _____

Witness 2 _____

Address _____

Appendix III Nonhospital Order Not to Resuscitate (DNR Order)

Nonhospital Order Not to Resuscitate (DNR Order)

NEW YORK STATE DEPARTMENT OF HEALTH

Person's Name: _____

Date of Birth: _____

Do not resuscitate the person named above.

*Physician's or Nurse Practitioner's Signature: _____

Print Name: _____

License Number: _____

Date: _____

It is the responsibility of the physician or nurse practitioner to determine, at least every 90 days, whether this order continues to be appropriate, and to indicate this by a note in the person's medical chart. The issuance of a new form is NOT required, and under the law this order should be considered valid unless it is known that it has been revoked. This order remains valid and must be followed, even if it has not been reviewed within the 90-day period.

*For individuals with an Intellectual or Developmental Disability (I/DD), the non-hospital DNR **must** be signed by a physician. For individuals with an I/DD who do not have capacity and do not have a health care proxy, the physician must ensure compliance with SCPA Section 1750-b.

Appendix IV

Deciding About CPR: Do-Not-Resuscitate (DNR) Orders— A Guide for Patients and Families

What do CPR and DNR orders mean?

CPR—cardiopulmonary resuscitation—refers to the medical procedures used to restart a patient’s heart and breathing when the patient suffers heart failure. CPR may involve simple efforts such as mouth-to-mouth resuscitation and external chest compression. Advanced CPR may involve electric shock, insertion of a tube to open the patient’s airway, injection of medication into the heart, and in extreme cases, open-chest heart massage.

A do-not-resuscitate (DNR) order tells medical professionals not to perform CPR. This means that doctors, nurses, and emergency medical personnel will not attempt emergency CPR if the patient’s breathing or heartbeat stops.

DNR orders may be written for patients in a hospital or nursing home, or for patients at home. Hospital DNR orders tell the medical staff not to resuscitate the patient if cardiac arrest occurs. If the patient is in a nursing home or at home, a DNR order tells the staff and emergency medical personnel not to perform emergency resuscitation and not to transfer the patient to a hospital for CPR.

Why are DNR orders issued?

CPR, when successful, restores heartbeat and breathing and allows a patient to resume his/her previous lifestyle. The success of CPR depends on the patient’s overall medical condition. Age alone does not determine whether CPR will be successful, although illnesses and frailties that go along with age often make CPR less successful.

When patients are seriously ill or terminally ill, CPR may not work or may only partially work, leaving the patient brain damaged or in a worse medical state than before the heart stopped. In these cases, some patients prefer to be cared for without aggressive efforts at resuscitation.

Can I request a DNR order?

Yes. All adult patients can request a DNR order. If you are sick and unable to tell your doctor that you want a DNR order written, a family member or close friend can decide for you.

Is my right to request or receive other treatment affected by a DNR order?

No. A DNR order is only a decision about CPR and does not relate to any other treatment.

Are DNR orders ethically acceptable?

It is widely recognized by health care professionals, clergy, lawyers, and others that DNR orders are medically and ethically appropriate under certain circumstances. For some patients, CPR offers more burdens than benefits, and may be against the patient’s wishes.

Is my consent required for a DNR order?

Your doctor must speak to you before entering a DNR order if you are able to decide, unless your doctor believes that discussing CPR with you would cause you severe harm. In an emergency, it is assumed that all patients would consent to CPR. However, if a doctor decides that CPR will not work, it is not provided.

How can I make my wishes about DNR known?

During hospitalization, an adult patient may consent to a DNR order orally or in writing, if two adult witnesses are present. When consent is given orally, one of the witnesses must be a physician affiliated with the hospital. Prior to hospitalization, consent must be in writing in the presence of two adult witnesses. In addition, the Health Care Proxy Law allows you to appoint someone you trust to make decisions about CPR and other treatments if you become unable to decide for yourself.

Before deciding about CPR, you should speak with your doctor about your overall health and the benefits and burdens CPR would provide for you. A full and early discussion between you and your doctor will assure that your wishes will be known.

If I request a DNR order, must my doctor honor my wishes?

If you don't want CPR and you request a DNR order, your doctor must follow your wishes, or:

- Transfer your care to another doctor who will follow your wishes; or
- Begin a process to settle the dispute if you are in a hospital or nursing home. (If the dispute is not resolved within 72 hours, your doctor must enter the order or transfer you to the care of another doctor.)

If I am not able to decide about CPR for myself, who will decide for me?

First, two doctors must determine that you are unable to decide about CPR. You will be told of this determination and have the right to object.

If you become unable to decide about CPR, and you did not tell your doctor or others about your wishes in advance, a DNR order can be written with the consent of the person highest on the following list:

- Your health care agent—the person chosen by you to make health care decisions under New York's Health Care Proxy Law (if you have appointed one);
- A court-appointed guardian (if there is one);
- Your closest relative (spouse, child, parent, sibling);
- A close friend.

How can I select someone to decide for me?

The Health Care Proxy Law allows adults to select someone they trust to make health care decisions for them when they are no longer able to do so themselves, including decisions about CPR. You can name someone by filling out a health care proxy form. (See Health Care Proxy Form).

Under what circumstances can a family member or close friend decide that a DNR order should be written?

A family member or close friend can consent to a DNR order only when you are unable to decide for yourself and you have not appointed a health care agent to decide for you. Your family member or friend can consent to a DNR order when:

- You are terminally ill; or
- You are permanently unconscious; or
- CPR will not work (would be medically futile); or
- CPR would impose an extraordinary burden on you given your medical condition and the expected outcome of CPR.

Anyone deciding for you must base the decision on your wishes, including your religious and moral beliefs, or if your wishes are not known, on your best interests.

What if members of my family disagree?

In a hospital or nursing home, your family can ask that the disagreement be mediated. Your doctor can request mediation if he or she is aware of any disagreement among your family members.

What if I lose the ability to make decisions about CPR and do not have anyone who can decide for me?

A DNR order can be written if two doctors decide that CPR would not work or if a court approves the DNR order. It would be best if you discussed your wishes about CPR with your doctor in advance.

Who can consent to a DNR order for children?

A DNR order can be entered for a child with the consent of the child's parent or guardian. If the child is old enough to understand and decide about CPR, the child's consent is also required for a DNR order.

What happens if I change my mind after a DNR order has been written?

You or anyone who consents to a DNR order for you can revoke consent for the order by telling the doctor, nurses, or others of the decision.

What are some common ethical problems?

An ethical problem might exist when the right thing to do is not clear or when there is a disagreement about what is best for the patient. Concerns may include:

- **Autonomy**—Should the patient’s prior decision be respected under the circumstances? Are the family and staff always bound by it?
- **Substituted Judgment**—Who should make the decision for the patient who lacks capacity, and on what basis should they decide?
- **Withholding/Withdrawing**—Should life-prolonging treatment (such as breathing machines or feeding tubes) be started, continued, or stopped?

How can I be more involved in my own medical decisions?

First, ask questions. If you don’t understand what any of your health care providers are telling you, ask them to explain again.

Second, prepare an advance directive, such as a living will or health care proxy, which helps your family and your health care providers know what levels of care you would want in the event you are unable to communicate. This is essential information that allows you to remain in control of your treatment options.

Appendix V

Glossary of Terms for Advance Directives and End-of-Life Care

To establish a common language for our members and their families, CDPHP has developed this glossary of terms to be used in advance directives and end-of-life care.

Advance Care Planning—Is a process of planning for future medical care in case you are unable to make your own decisions, either temporarily or permanently. It is a communication process and not merely a document. The process results in the completion of advance directives.

Advance Directive—A document created by an adult to provide instructions concerning treatments, or to appoint a decision maker, in the event the adult loses decisional capacity. The most common advance directives are living wills and health care proxies.

Capacity—The ability to understand and appreciate the nature and consequence of health care decisions, including the benefits and risks of and alternatives to any proposed treatment, and to reach an informed decision. Patients are presumed to have capacity unless there is a determination otherwise.

Cardiopulmonary Resuscitation or CPR—Measures to restore cardiac function or to support ventilation in the event of a cardiac or respiratory arrest, such as:

- Manual chest compression
- Mouth-to-mouth rescue breathing
- Intubation
- Direct cardiac injection
- Intravenous medications
- Electrical defibrillation
- Open-chest cardiac massage

Cardiopulmonary resuscitation does not include measures to improve ventilation and cardiac function in the absence of an arrest. (Accordingly, a DNR order does not instruct staff to withhold measures to improve ventilation and cardiac function in the absence of an arrest.)

Comfort Measures—Are medical care and treatment provided with the primary goal of relieving pain and other symptoms and reducing suffering. Reasonable measures will be made to offer food and fluids by mouth. Medication, turning in bed, wound care, and other measures will be used to relieve pain and suffering. Oxygen, suctioning, and manual treatment of airway obstructions will be used as needed for comfort.

No matter what else is chosen in terms of life-sustaining treatment, the patient will be treated with dignity and respect, and health care providers will offer comfort measures.

DNR Order or Order Not to Resuscitate—An order not to attempt cardiopulmonary resuscitation in the event a patient suffers cardiac or respiratory arrest. Such orders may cover all cardiopulmonary resuscitation measures or may be limited to specific procedures (such as intubation) or equipment, depending on the scope of the consent.

A DNR order also instructs staff not to summon EMTs, or transfer a patient to another unit or facility in response to a cardiac or respiratory arrest.

A DNR order is not a basis for withholding treatment other than CPR, or for withholding measures to support heartbeat and breathing in circumstances other than cardiac or respiratory arrest.

Futile or Medically Futile—Treatment that will not be effective in achieving treatment goals set by the patient.

With respect to a DNR decision, futile means that cardiopulmonary resuscitation will be unsuccessful in restoring cardiac and respiratory function or that the patient will experience repeated arrest in a short time period before death occurs.

Health Care Proxy—A document created by an adult to appoint another person to make health care decisions for him or her in the event the adult loses decisional capacity.

Health Care Agent—The person appointed by an adult, in a health care proxy, to make health care decisions for the adult.

Intubation—Insertion of an endotracheal tube or esophageal obturator airway.

Life-Sustaining Treatment—Any treatment that serves to prolong life without reversing the underlying medical condition. Life-sustaining treatment may include, but is not limited to, mechanical ventilation, renal dialysis, cardiopulmonary resuscitation, and artificial nutrition and hydration.

Living Will—A document created by an adult to provide instructions concerning the provision or withholding of life-sustaining treatments in the event the adult loses decisional capacity.

Medical Orders for Life-Sustaining Treatment (MOLST)—Program is designed to improve the quality of care seriously ill people receive at the end of life. MOLST is based on the patient's current health status, prognosis, and goals for care. The discussion emphasizes shared medical decision-making that helps the patient understand what can and cannot be accomplished. The result is a set of medical orders that must be honored by all health care professionals in all settings. MOLST is New York's endorsed National POLST Paradigm program.

Palliative Care—a multidisciplinary approach to specialized medical care for people with life-limiting illnesses that focuses on providing people with relief from the symptoms, pain, physical stress, and mental stress of the terminal diagnosis.

Power of Attorney—A document used to authorize someone to make decisions regarding property, financial affairs, and/or certain personal matters. A power of attorney cannot be used to give someone the authority to consent to or decline medical treatment. A health care proxy is needed for that purpose.

Surrogate—A person close to you, as defined by New York state law, who can make decisions on your behalf if you have lost the capacity to make decisions about your medical treatment and have not appointed a health care agent.

Terminally Ill—An illness or injury from which there is no recovery, and which reasonably can be expected to cause death within one year.

Appendix VI Medical Orders for Life-Sustaining Treatment (MOLST)

NEW YORK STATE DEPARTMENT OF HEALTH

Medical Orders for Life-Sustaining Treatment (MOLST)

THE PATIENT KEEPS THE ORIGINAL MOLST FORM DURING TRAVEL TO DIFFERENT CARE SETTINGS. THE PHYSICIAN KEEPS A COPY.

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT

ADDRESS

CITY/STATE/ZIP

DATE OF BIRTH (MM/DD/YYYY)

Male Female

eMOLST NUMBER (THIS IS NOT AN eMOLST FORM)

Do-Not-Resuscitate (DNR) and Other Life-Sustaining Treatment (LST)

This is a medical order form that tells others the patient's wishes for life-sustaining treatment. A health care professional must complete or change the MOLST form, based on the patient's current medical condition, values, wishes and MOLST Instructions. If the patient is unable to make medical decisions, the orders should reflect patient wishes, as best understood by the health care agent or surrogate. A physician must sign the MOLST form. All health care professionals must follow these medical orders as the patient moves from one location to another, unless a physician examines the patient, reviews the orders and changes them.

MOLST is generally for patients with serious health conditions. The patient or other decision-maker should work with the physician and consider asking the physician to fill out a MOLST form if the patient:

- Wants to avoid or receive any or all life-sustaining treatment.
- Resides in a long-term care facility or requires long-term care services.
- Might die within the next year.

If the patient has a developmental disability and does not have ability to decide, the doctor must follow special procedures and attach the appropriate legal requirements checklist.

SECTION A Resuscitation Instructions When the Patient Has No Pulse and/or Is Not Breathing

Check *one*:

CPR Order: Attempt Cardio-Pulmonary Resuscitation

CPR involves artificial breathing and forceful pressure on the chest to try to restart the heart. It usually involves electric shock (defibrillation) and a plastic tube down the throat into the windpipe to assist breathing (intubation). It means that all medical treatments will be done to prolong life when the heart stops or breathing stops, including being placed on a breathing machine and being transferred to the hospital.

DNR Order: Do Not Attempt Resuscitation (Allow Natural Death)

This means do not begin CPR, as defined above, to make the heart or breathing start again if either stops.

SECTION B Consent for Resuscitation Instructions (Section A)

The patient can make a decision about resuscitation if he or she has the ability to decide about resuscitation. If the patient does NOT have the ability to decide about resuscitation and has a health care proxy, the health care agent makes this decision. If there is no health care proxy, another person will decide, chosen from a list based on NYS law.

SIGNATURE Check if verbal consent (Leave signature line blank) _____
DATE/TIME

PRINT NAME OF DECISION-MAKER

PRINT FIRST WITNESS NAME

PRINT SECOND WITNESS NAME

Who made the decision? Patient Health Care Agent Public Health Law Surrogate Minor's Parent/Guardian §1750-b Surrogate

SECTION C Physician Signature for Sections A and B

PHYSICIAN SIGNATURE _____
PRINT PHYSICIAN NAME _____
DATE/TIME

PHYSICIAN LICENSE NUMBER

PHYSICIAN PHONE/PAGER NUMBER

SECTION D Advance Directives

Check all advance directives known to have been completed:

Health Care Proxy Living Will Organ Donation Documentation of Oral Advance Directive

THE PATIENT KEEPS THE ORIGINAL MOLST FORM DURING TRAVEL TO DIFFERENT CARE SETTINGS. THE PHYSICIAN KEEPS A COPY.

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT _____

DATE OF BIRTH (MM/DD/YYYY) _____

SECTION E

Orders For Other Life-Sustaining Treatment and Future Hospitalization When the Patient has a Pulse and the Patient is Breathing

Life-sustaining treatment may be ordered for a trial period to determine if there is benefit to the patient. If a life-sustaining treatment is started, but turns out not to be helpful, the treatment can be stopped.

Treatment Guidelines No matter what else is chosen, the patient will be treated with dignity and respect, and health care providers will offer comfort measures. *Check one:*

- Comfort measures only** Comfort measures are medical care and treatment provided with the primary goal of relieving pain and other symptoms and reducing suffering. Reasonable measures will be made to offer food and fluids by mouth. Medication, turning in bed, wound care and other measures will be used to relieve pain and suffering. Oxygen, suctioning and manual treatment of airway obstruction will be used as needed for comfort.
- Limited medical interventions** The patient will receive medication by mouth or through a vein, heart monitoring and all other necessary treatment, based on MOLST orders.
- No limitations on medical interventions** The patient will receive all needed treatments.

Instructions for Intubation and Mechanical Ventilation *Check one:*

- Do not intubate (DNI)** Do not place a tube down the patient's throat or connect to a breathing machine that pumps air into and out of lungs. Treatments are available for symptoms of shortness of breath, such as oxygen and morphine. (This box should **not** be checked if full CPR is checked in Section A.)
- A trial period** *Check one or both:*
 - Intubation and mechanical ventilation**
 - Noninvasive ventilation (e.g. BIPAP), if the health care professional agrees that it is appropriate**
- Intubation and long-term mechanical ventilation, if needed** Place a tube down the patient's throat and connect to a breathing machine as long as it is medically needed.

Future Hospitalization/Transfer *Check one:*

- Do not send to the hospital unless pain or severe symptoms cannot be otherwise controlled.**
- Send to the hospital, if necessary, based on MOLST orders.**

Artificially Administered Fluids and Nutrition When a patient can no longer eat or drink, liquid food or fluids can be given by a tube inserted in the stomach or fluids can be given by a small plastic tube (catheter) inserted directly into the vein. If a patient chooses not to have either a feeding tube or IV fluids, food and fluids are offered as tolerated using careful hand feeding. *Check one each for feeding tube and IV fluids:*

- No feeding tube**
- A trial period of feeding tube**
- Long-term feeding tube, if needed**
- No IV fluids**
- A trial period of IV fluids**

Antibiotics *Check one:*

- Do not use antibiotics.** Use other comfort measures to relieve symptoms.
- Determine use or limitation of antibiotics when infection occurs.**
- Use antibiotics** to treat infections, if medically indicated.

Other Instructions about starting or stopping treatments discussed with the doctor or about other treatments not listed above (dialysis, transfusions, etc.).

Consent for Life-Sustaining Treatment Orders (Section E) (Same as Section B, which is the consent for Section A)

SIGNATURE Check if verbal consent (Leave signature line blank) _____
DATE/TIME

PRINT NAME OF DECISION-MAKER

PRINT FIRST WITNESS NAME

PRINT SECOND WITNESS NAME

Who made the decision? Patient Health Care Agent Based on clear and convincing evidence of patient's wishes
 Public Health Law Surrogate Minor's Parent/Guardian §1750-b Surrogate

Physician Signature for Section E

PHYSICIAN SIGNATURE _____
PRINT PHYSICIAN NAME _____
DATE/TIME

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LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT _____

DATE OF BIRTH (MM/DD/YYYY) _____

SECTION F Review and Renewal of MOLST Orders on This MOLST Form

The physician must review the form from time to time as the law requires, and also:

- If the patient moves from one location to another to receive care; or
- If the patient has a major change in health status (for better or worse); or
- If the patient or other decision-maker changes his or her mind about treatment.

Date/Time	Reviewer's Name and Signature	Location of Review (e.g., Hospital, NH, Physician's Office)	Outcome of Review
			<input type="checkbox"/> No change <input type="checkbox"/> Form voided, new form completed <input type="checkbox"/> Form voided, no new form
			<input type="checkbox"/> No change <input type="checkbox"/> Form voided, new form completed <input type="checkbox"/> Form voided, no new form
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LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT _____

DATE OF BIRTH (MM/DD/YYYY) _____

SECTION F

Review and Renewal of MOLST Orders on This MOLST Form *Continued from Page 3*

Date/Time	Reviewer's Name and Signature	Location of Review (e.g., Hospital, NH, Physician's Office)	Outcome of Review
			<input type="checkbox"/> No change <input type="checkbox"/> Form voided, new form completed <input type="checkbox"/> Form voided, no new form
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