



# How Do I Make Sure My Health Care Wishes Are Followed if I Am Incapacitated?

## WHAT CAN I DO TO MAKE HEALTH CARE CHOICES IN ADVANCE?

There are three kinds of legal documents called **advance directives** that allow you to make your wishes known in case something happens that makes you unable to make health care decisions.

- A **health care proxy** allows you to designate someone you trust to make decisions about your medical care if you cannot.
- A **living will** lets you explain your wishes in advance about what you want the doctors to do in case something happens to you.
- A **do not resuscitate (DNR) order** is a specific direction to medical providers not to revive you if your heart stops or you stop breathing.

In most cases, it is **not enough** to make general statements to your doctor, family, or loved ones concerning your health care wishes. They may not automatically be able to make decisions for you if you are not able. Courts often require clear and convincing evidence of **your** wishes, so it is best to **put them in writing in an advance directive**.

### How Do I Get These Documents?

You can talk with a lawyer or health care advocate to help you understand the options and draw up personalized forms.

- The New York State Office of the Attorney General published a helpful guide entitled "Planning Your Health Care In Advance" which includes sample advance directives. You can obtain a copy of the guide online at [https://www.ag.ny.gov/sites/default/files/pdfs/publications/Planning\\_Your\\_Health\\_Care\\_in\\_Advance.pdf](https://www.ag.ny.gov/sites/default/files/pdfs/publications/Planning_Your_Health_Care_in_Advance.pdf) or by calling the New York State Office of the Attorney General at 800- 771-7755.

## WHAT IS THE DIFFERENCE BETWEEN A HEALTH CARE PROXY AND A LIVING WILL?

A **health care proxy** designates someone else (a health care agent) to make medical treatment decisions for you if you cannot.

A **living will** gives specific written directions about what you would like doctors to do in particular circumstances (e.g., end-of-life care). You may want one or both advance directives.

With a health care proxy, you can give specific directions about what you want the person who is making the decisions for you to do, but they will be responsible for making decisions if circumstances come up that you have not specified. You can give the specific directions either in the health care proxy itself or you can make a separate living will. If you do not have someone you would like to designate for a health care proxy, you can have a living will explain your wishes.

## WHAT IS A DNR?

A **DNR** means that medical professionals, including doctors and ambulance personnel, must not—under any circumstances—revive you if your heart or breathing stops. With a DNR Order, you express your wish to do without emergency treatment such as cardiopulmonary resuscitation (CPR). This is NOT a general refusal of medical treatment or life support.

- You can execute a DNR in or out of the hospital, but it must be **signed by your doctor**. A hospital DNR is issued if you are in a health care facility (e.g., hospital or nursing home facility). The hospital DNR becomes part of your medical file. A non-hospital DNR must be completed on a state-specific form – DOH-3474. A copy can be found at <https://www.health.ny.gov/forms/doh-3474.pdf> . Ask your doctor or medical facility if you would like a DNR.

NOTE: If you are not in the hospital, you can wear a **bracelet** alerting medical personnel that you have a DNR. However, you must have a valid non-hospital DNR Order recorded. For information on medical bracelets go to <http://www.medicalert.org> or call MedAlert at 800-432-5378.

### Making Your Wishes Known

In addition to filling out the forms, **be sure that people know about them**. Give copies to your family and loved ones, your doctor or medical facility, and your lawyer or health care advocate. Keep the originals in a safe place where you can get them quickly, and tell people close to you where they are.

**ORGAN DONATION:** Organ donation is a separate question that does not have to be related to your advance directives, but you may want to consider it at the same time. For more information, go to <http://www.health.ny.gov/professionals/patients/donation/organ/> or call 866-NYDONOR (866-693-6667).

## WHO CAN I CONTACT IF I HAVE QUESTIONS?

You may call Mobilization for Justice, Inc.'s Government Benefits Project at 212-417-3732 on Mondays from 10:00 a.m. to 12:00 p.m. If you are a mental health consumer you may call Mobilization for Justice's Mental Health Law Project at 212-417-3830 on Mondays, Tuesdays, and Thursdays from 10:00 a.m. to 5:00 p.m.

**DISCLAIMER: This fact sheet gives general information  
for NYC residents; it is NOT legal advice.**