

LAW OFFICES OF
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QUESTIONS & ANSWERS ON:
LIVING WILLS AND
HEALTH CARE PROXY

ANSWERS TO THE 14 MOST COMMONLY ASKED QUESTIONS
ABOUT LIVING WILLS AND HEALTH CARE PROXY

The tragic Terry Schiavo case not only pulled on the world's heart strings, but, importantly, taught everyone the important lesson of preparation for illnesses, whether sudden or anticipated.



The phrase "Living Will" and in New York State, the term "Health Care Proxy", should be understood by all.

Attorney Robert Reid, who heads our firm's Wills and Estates Department has prepared this helpful brochure in our traditional, easily understood, Question and Answer format. Robert, who has spoken at countless Senior Citizen Centers and other community organization meetings, in explaining many aspects of legal issues, is available for your own organization, if you wish him to speak, or answer questions.

Also, our firm's Mobile Law Office is also available to visit your community and meet with individuals, or groups, free of charge.

To make an appointment for the Mobile Office, or to request additional copies of this "Living Wills and Health Care Proxy" brochure, simply contact our office on our toll free number: 1-800-2-DEARIE (1-800-233-2743).

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1) What is a Living Will?

A living will is a document that provides specific instructions about your future health care. There is no statutory format for a living will. A living will is best used in conjunction with a Health Care Proxy.

2) Why would I write a Living Will?

The living will is useful if you have very specific wishes concerning the care you want in specific health situation. You may have moral or religious reasons or ethnic traditions which require giving certain kinds of care and withholding other care. The living will sets out exactly how you wish to be treated. One caveat: Your wishes must be stated clearly and unequivocally.

3) How does a Living will differ from a Health Care Proxy?

Living wills deal with specific health situations and do not usually appoint a Health Care Agent. The Health Care Proxy designates your choice of the person that health providers should listen to when you are unable to communicate your wishes.

4) What is a Health Care Proxy?

It is a document created by statute which allows you to appoint someone you trust (called your health care agent) to make health care and treatment decisions for you if you lost the ability to make decisions yourself. By appointing a health care agent, you can be assured that health care providers will follow your wishes.

5) Why do I need to appoint a Health Care Agent?

The simple answer is that you cannot always predict if or when you will lose your ability to make health-care and treatment decisions for yourself. If something happened to you suddenly such as an accident and you lost consciousness, you would have no one speak for you unless you had a health care agent appointed.

6) Who can be my Health Care Agent?

Anyone who is over 18 years of age can be your health care agent. You must trust this person since he or she may be making life-altering decisions for you. Be sure to talk with your health care agent to explain what your wishes are should you lose your capacity to make decisions for yourself.

7) When does the authority of my Health Care Agent begin?

Once you lose your ability to make decisions for yourself, your health care agent's authority begins. As long as you are conscious and have the ability to make your own decisions, the health care agent makes no decisions.

8) What decisions can my Health Care Agent make?

Unless you put limitations on this authority, your healthcare agent can make any decision you could have made. A health care agent cannot make decisions about artificial nutrition and hydration (i.e. feeding tube and intravenous lines) unless you specifically give him or her that authority.

9) Can I change my Health Care Proxy or Agent once I have signed one?

Yes. Canceling a Health Care Proxy is very easy. Simply fill out a new form. The person you appointed will be your agent only until you change him or her. You can even appoint a health care agent for a limited time such as just for the time when you are under general anesthesia.

10) Can my Health Care Agent overrule my wishes or prior treatment instructions?

No. Your health care agent cannot substitute his or her thoughts for your expressed wishes. That is why it is very important to have a frank discussion with your health care agent about what your wishes about treatment and care are as well as your moral and/or religious beliefs.

11) Who has to listen to my health care agent?

All health providers such as doctors, nurses, hospitals, nursing homes, EMT personnel, etc. are legally required to honor the decisions that your agent makes.

12) Can my health care agent donate my organs if I pass away?

No. The authority you give to your agent ceases when you pass away. If you wish to donate organs, you must state that wish clearly in your Health Care Proxy.

13) What is needed to make a Health Care Proxy valid?

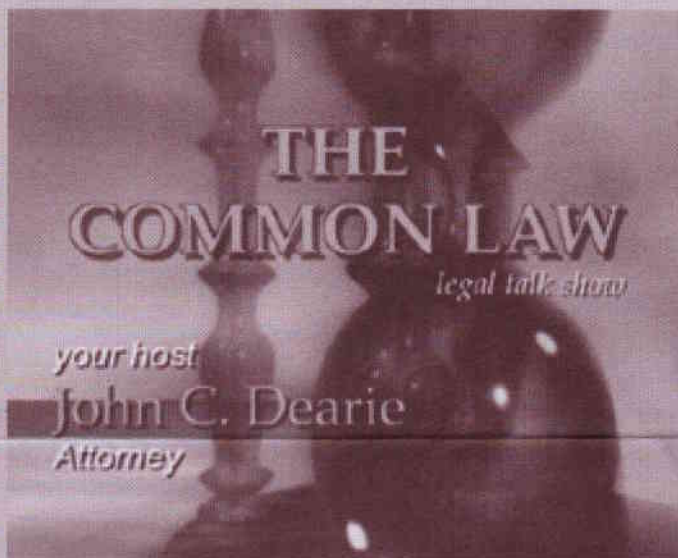
You need a clear, written statement of your wishes, the name, address and phone number of your health care agent, the name, address and phone number of an alternate agent, the date and your name and address. There is a statutory form but you don't have to use it. You must sign the health care proxy in front of two witnesses who write in their names and addresses. The Health Care Proxy does not have to be notarized.

14) Where should I keep my Health Care Proxy?

Near you. It is needed when there is an emergency. Good places to have one are on your refrigerator, in the glove box of your car and in your wallet. Give one to your doctor and to the person you appointed as your health care agent.

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