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, eye 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, eye 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, eye and/or tissue donation?
Yes. Use the optional organ, eye and/or 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, eyes 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, eye and/or tissue donor.**

Can my health care agent make decisions for me about organ, eye 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, eye 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, eye and/or tissue donation to your health care agent, or "health care proxy," family members, and the person responsible for disposition of your remains. If you have not already made your wishes to become, or not to become, an organ and/or tissue donor known, New York Law provides a list of individuals who are authorized to consent to organ, eye and/or tissue donation on your behalf. They are listed as follows, in order of priority: your health care agent/proxy; 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; an adult grandchild; a grandparent; a guardian appointed for you by a court prior to your death; or any other person authorized to dispose of your 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, eye and /or tissue donation on this form. New York law does provide for certain individuals in order of priority to consent to an organ, eye and/or tissue donation on your behalf: your designated health care agent/ proxy; your designated agent to control the disposition of your remains; 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; an adult grandchild; a grandparent; a guardian appointed by a court prior to your death; or any other person authorized to dispose of your body.

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, Eye and/or Tissue Donation

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

☐ Any needed organs, eyes and/or tissues

☐ The following organs, eyes and/or tissues _____

_____

☐ Limitations _____

If you do not state your wishes or instructions about organ, eye 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 _____

_____

Department of Health

NEW YORK STATE DEPARTMENT OF HEALTH

Nonhospital Order Not to Resuscitate (DNR Order)

Person's Name: _____

Date of Birth: _____

Do not resuscitate the person named above.

*Physician/Nurse Practitioner/
Physician Assistant Signature: _____

Print Name: _____

License Number: _____

Date: _____

It is the responsibility of the physician/nurse practitioner/physician assistant 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.

Medical Orders for Life-Sustaining Treatment (MOLST)

This Medical Orders for Life-Sustaining Treatment (MOLST) form is generally for patients with advanced illness who require long-term care services and/or who might die within 1-2 years.* The MOLST may also be used for individuals who wish to avoid and/or receive specific life-sustaining treatments. A physician, nurse practitioner, or physician assistant reviews the patient's current health status, prognosis, goals for care, and the risks and benefits of each life-sustaining treatment with the patient if they have capacity, or the health care agent or surrogate if the patient lacks capacity.

All ethical and legal requirements must be followed, including special procedures when a patient has an intellectual or developmental disability and lacks capacity. If the patient has an intellectual or developmental disability (I/DD) and lacks the capacity to decide, the physician (not a nurse practitioner or physician's assistant) must follow special procedures and attach the completed Office for People with Developmental Disabilities (OPWDD) MOLST Legal Requirements Checklist for Individuals with I/DD before signing the MOLST. (OPWDD checklist available at **https://opwdd.ny.gov/providers/health-care-decisions**). For more information on requirements for completing the MOLST, see page 4.

This MOLST may not be changed without the consent of the patient (or their health care decision-maker if the patient lacks capacity). Completing a MOLST is voluntary and cannot be required. The patient should keep this original MOLST with them at all times, whenever they leave home and during travel to different care settings. The physician, nurse practitioner, or physician assistant keeps a copy. All health care professionals and emergency medical services (EMS) providers are required to follow these medical orders. HIPAA permits disclosure of MOLST to other health care professionals & electronic registry as necessary for treatment. For further information on MOLST, see **https://www.health.ny.gov/professionals/patients/patient_rights/molst/**

SECTION A Patient Information

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT

ADDRESS/CITY/STATE/ZIP

PREFERRED PHONE NUMBER | DATE OF BIRTH (MM/DD/YYYY) | eMOLST NUMBER (THIS IS NOT AN eMOLST FORM)

Check All Advance Directives Known to be Completed

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

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

Check **one:**

☐ **CPR Order: Attempt Cardio-Pulmonary Resuscitation**

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

SECTION C Orders for Life-Sustaining Treatment When the Patient Has a Pulse and is Breathing

Respiratory Support: Non-invasive Ventilation and/or Intubation and Mechanical Ventilation

Check **one:**
- ☐ Intubation and long-term mechanical ventilation, includes tracheostomy
- ☐ A trial of non-invasive ventilation and/or intubation and mechanical ventilation*
- ☐ A trial of non-invasive ventilation only; if fails, Do Not Intubate*
- ☐ Do Not Intubate (DNI) and Do Not Use Non-invasive Ventilation or Mechanical Ventilation

Future Hospitalization/Transfer

Check **one:**
- ☐ Send to the hospital, when medically necessary
- ☐ Send to the hospital only if pain and severe symptoms cannot be controlled
- ☐ Do not send to the hospital

SECTION D Consent for Sections B and C

SIGNATURE OF INDIVIDUAL MAKING DECISIONS | PRINTED NAME OF INDIVIDUAL MAKING DECISIONS

☐ Verbal consent, leave signature line blank

DATE/TIME OF CONSENT

Who is the individual making decisions:

☐ Patient ☐ Health Care Agent ☐ FHCDA Surrogate ☐ Minor's Parent/Guardian ☐ §1750-b Surrogate for individual with I/DD

PRINTED NAME OF FIRST WITNESS* | PRINTED NAME OF SECOND WITNESS

*If this decision relates to an individual with an intellectual or developmental disability, refer to the instructions on page 4 before proceeding.

SECTION E Physician/Nurse Practitioner/Physician Assistant Signature for Sections B and C

If Section D is completed by a §1750-b Surrogate, a physician must sign this Section E. Prior to the physician signing this Section E when Section D is completed by a §1750-b Surrogate, the physician must complete and attach the OPWDD Checklist.

SIGNATURE | PRINT NAME

LICENSE NUMBER | DATE/TIME

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT | DATE OF BIRTH (MM/DD/YYYY)

SECTION F Additional Orders for Life-Sustaining Treatment

TREATMENT GUIDELINES

Check **one:**

☐ No limitation on medical interventions
☐ Limited medical interventions, only as described below
☐ Comfort measures only. Provide medical care and treatment with the primary goal of relieving pain and other symptoms

ARTIFICIALLY ADMINISTERED FLUID AND NUTRITION

FEEDING TUBE

Check **one:** ☐ Long term feeding tube
☐ Determine use or limitation if need arises*
☐ No feeding tube

IV FLUIDS

Check **one:** ☐ IV fluids
☐ Determine use or limitation as need arises*
☐ No IV fluids

ANTIBIOTICS

Check **one:** ☐ Use antibiotics to treat infections
☐ Determine use or limitation of antibiotics when infection occurs*
☐ Do not use antibiotics

DIALYSIS

Check **one:** ☐ Use dialysis to treat renal failure
☐ Determine use or limitation if renal failure occurs*
☐ Do not use dialysis

OTHER MEDICAL ORDERS AND INSTRUCTIONS (only as discussed with the physician, NP, or PA. May include instructions and goals for trials*. If nothing else is discussed, write NONE.)

SECTION G Consent for Section F

SIGNATURE OF INDIVIDUAL MAKING DECISIONS | PRINTED NAME OF INDIVIDUAL MAKING DECISIONS

☐ Verbal consent, leave signature line blank

DATE/TIME OF CONSENT

Who is the individual making decisions:

☐ Patient ☐ Health Care Agent ☐ FHCDA Surrogate ☐ Minor's Parent/Guardian ☐ §1750-b Surrogate for individual with I/DD

PRINTED NAME OF FIRST WITNESS* | PRINTED NAME OF SECOND WITNESS

*If this decision relates to an individual with an intellectual or developmental disability, refer to the instructions on page 4 before proceeding.

SECTION H Physician/Nurse Practitioner/Physician Assistant Signature for Section F

If consent for this order was provided by a §1750-b Surrogate for an individual with an intellectual or developmental disability, only a physician may sign this section, and only after the OPWDD MOLST Legal Requirements Checklist for Individuals with I/DD has been completed and attached.t.

SIGNATURE | PRINT NAME

LICENSE NUMBER | DATE/TIME

This MOLST form has been approved by the NYSDOH for use in all settings.

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT	DATE OF BIRTH (MM/DD/YYYY)

SECTION I Review and Renewal

A physician, nurse practitioner, or physician assistant should review this form at least every 90 days and whenever the patient or other decisionmaker changes their mind about treatment. The MOLST should also be reviewed 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).

This MOLST remains valid and must be followed even if it has not been reviewed in the 90-day period.

Date/Time	Reviewer's Printed Name and Signature	Location of Review	Outcome of Review
			☐ No change ☐ Form changed, new form completed ☐ Form voided, no new form
			☐ No change ☐ Form changed, new form completed ☐ Form voided, no new form
			☐ No change ☐ Form changed, new form completed ☐ Form voided, no new form
			☐ No change ☐ Form changed, new form completed ☐ Form voided, no new form
			☐ No change ☐ Form changed, new form completed ☐ Form voided, no new form
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			☐ No change ☐ Form changed, new form completed ☐ Form voided, no new form
			☐ No change ☐ Form changed, new form completed ☐ Form voided, no new form

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT | DATE OF BIRTH (MM/DD/YYYY)

In addition to the MOLST form, the New York State Department of Health and OPWDD have developed legal requirements checklists and instructions to assist in the proper completion of the MOLST. The checklists are intended to assist providers in satisfying the ethical and legal requirements associated with decisions concerning life-sustaining treatment for all patients.

Adult Patients

The instructions and legal requirements checklists for **adult patients** can be found at **www.health.ny.gov/professionals/patients/patient_rights/molst/**. For adult patients, there are five different checklists. The correct checklist should be chosen based on the patient's decision-making capacity and the setting.

- **Checklist #1** Adult patients with medical decision-making capacity - any setting
- **Checklist #2** Adult patients without medical decision-making capacity who have a health care proxy - any setting
- **Checklist #3** Adult hospital, hospice or nursing home patients without medical decision-making capacity who do not have a health care proxy, decision-maker is Public Health Law Surrogate
- **Checklist #4** Adult hospital, hospice or nursing home patients without medical decision-making capacity who do not have a health care proxy and for whom no surrogate from the list is available
- **Checklist #5** Adult patients without medical decision-making capacity who do not have a health care proxy, and the MOLST form is being completed in the community

A Public Health Law Surrogate (aka a FHCDA Surrogate) means a surrogate under Public Health Law Article 29-CC (the Family Health Care Decisions Act).

Minor Patients

The instructions and legal requirements checklists for **minor patients** can be found at: www.health.ny.gov/professionals/patients/patient_rights/molst/

Individuals with Intellectual or Developmental Disabilities (I/DD)

The law governing the decision-making process differs for individuals with I/DD. Surrogate's Court Procedure Act Section 1750-b (SCPA 1750-b) must be followed when making a decision for an individual with I/DD who is determined to lack capacity and who does not have a health care proxy.

- **Sections E and H of this form may only be signed by a physician,** not a nurse practitioner or physician's assistant.
- In sections D and G of this form, **one witness must be the individual's treating physician.**
- Completion of the OPWDD MOLST Legal Requirements Checklist for Individuals with I/DD, including notification of certain parties and resolution of any objections, is **mandatory prior to completion of a MOLST.**
- Both the OPWDD MOLST Legal Requirements Checklist for Individuals with I/DD and SCPA 1750-b process apply to individuals with I/DD, r**egardless of their age or residential setting.**
- **Decisions to withhold or withdraw life sustaining treatment (LST) for an individual with I/DD** must be specifically listed and described in step 2 of the OPWDD MOLST Legal Requirements Checklist for Individuals with I/DD and only after the surrogate has had a discussion with the individual's treating physician regarding their medical condition, possible treatment options and goals for care. SCPA 1750-b also requires that two physicians determine that the individual's condition meets specific medical criteria **at the time the request to withhold or withdraw treatment is being made,** including that the provision of the life sustaining treatment would impose an extraordinary burden on the individual. These requirements are included in step 4 of the OPWDD MOLST Legal Requirements Checklist for Individuals with I/DD. The individual's medical condition for the purposes of a request to withhold or withdraw LST **must never include consideration of their intellectual or developmental disability.**
- Trials for an individual with I/DD: Whether or not a new checklist is required following an unsuccessful trial of LST depends on the parameters of the trial, as specified in step 2 of the OPWDD MOLST Legal Requirements Checklist for individuals with I/DD. **If a trial period is open ended, and the authorized surrogate subsequently decides to request withdrawal of the LST, a new checklist is required.**

The complete instructions and legal requirements checklists for **people with intellectual or developmental disabilities** can be found at: **www.opwdd.ny.gov/providers/health-care-decisions** or at **www.health.ny.gov/professionals/patients/patient_rights/molst/**.