Rights of Outpatients

in all outpatient programs licensed or run by the New York State Office of Mental Health

State of New York
Andrew M. Cuomo
Governor

Office of Mental Health
Ann Marie Sullivan, M.D.
Commissioner

Office of Mental Health

From the Commissioner of Mental Health

One of our important roles at the State Office of Mental Health is to offer meaningful information to help people make choices and decisions about mental health issues.

It is our hope that an understanding of the rights of outpatients will help foster respectful relationships between people who use mental health services, family members, staff people, and members of the community.

Dr. Ann Marie T. Sullivan
Commissioner
New York State Office of Mental Health

The rights of people in outpatient mental health programs are protected by both law and regulation.

The State Office of Mental Health (OMH) licenses outpatient programs including but not limited to, clinic, day treatment for children, intensive psychiatric rehabilitation treatment, partial hospitalization, Assertive Community Treatment (ACT), and Personalized Recovery Oriented Services (PROS). Under these licenses, an array of facility based and community-based services are available.

Participating in a psychiatric treatment program does not mean you are mentally incompetent or that you have any restriction on the rights granted to all citizens. There are specific civil rights that are protected if you participate in an outpatient program. Included are right to register and vote in elections, apply for permits and licenses, take civil service tests, and apply for jobs and be appointed without discrimination if you qualify.

Under the law, you have the right to be treated confidentially, with respect and dignity by all staff people. Treatment or access to programs may not be limited or denied because of race, creed, color, sex, national origin, age, marital status, or disabilities that are unrelated to treatment. If you think that you are being discriminated against on any of these grounds - or if you believe that you are a victim of mental, verbal, physical, or sexual abuse - this booklet tells where you may file an official complaint.

You also have the same right as other citizens to designate a "health care proxy" or prepare an "advance directive." Because some people have recurring episodes of mental illness, these documents may be of particular interest to people who use mental health services. The documents allow you to provide instructions about your future treatment, to be used later if you are unable to give instructions at the time you are being treated.

Basic Information

When you are admitted to an outpatient program, or shortly after, you should be informed about your rights. Your rights may not be limited as punishment or for the convenience of staff people and may not be restricted unless a specific order is written by a physician. Any restrictions on your rights must be discussed with you prior to the restrictions going into effect and the order must be placed in your clinical record. The order must state the clinical justification for the limitation and the specific time period when it will remain in effect.

These rights include:

- The right to freedom from abuse and mistreatment by employees.
- The right to a reasonable degree of privacy, including bathroom privacy.
- The right to an individualized service plan, a full explanation of the services provided, and the right to participate in the development of your individualized service plan.
- The right to be informed of the provider's grievance policies and procedures, and the right to bring any questions or complaints to the director of the program or the organizations listed at the back of this booklet.
- The right to receive clinically appropriate care and treatment suited to your needs and skillfully, safely, and humanely administered with full respect for your dignity and personal integrity.
- The right to be treated in a way that acknowledges and respects your cultural environment.

In a separate category, your outpatient program may inform you about these additional elements, although they are not rights set forth in law or regulation:

- The name of the staff member who will have primary responsibility, for example, as your principal contact person or personal service coordinator.
- Alternate treatments available to you.
- The rules of conduct in your program.
- The cost of treatment.
- The limit, if there is one, on how long you can stay in the program.
- The program's relationship with other agencies regarding additional services.
- The program's source of funding.
- The authority under which the program operates.

Participation and Objections

For most people, participating in an outpatient program is voluntary. Occasionally someone is ordered by a court to obtain outpatient services under the Assisted Outpatient Treatment Program (also known as Kendra's Law) or as a condition of parole from prison. While your full participation in the program is a central goal, if you object to your individualized service plan, or if it is not working to your satisfaction and you want it changed, that is not reason to discharge you from the program. Periodically, you can expect to review your plan with staff people to look at your progress. You can be discharged if participation is no longer clinically appropriate or if you engage in conduct that poses a risk of physical harm to yourself or others.

You have the right to make an informed choice on whether you will participate in research projects. These could involve new medications, a series of questions posed by an interviewer, or questionnaires. If you refuse to participate, a program cannot use that as grounds to deny you further treatment. If you decide to participate, your signed informed consent is required.

Privacy and Confidentiality

The law protects your right to privacy and confidentiality during treatment. This includes conversations between you and staff people who provide services, and information in your record. The Office of Mental Health will provide you with a separate *Notice of Privacy Practices* that will tell you how we use and disclose your confidential mental health treatment information. It will also tell you what your rights are with regard to your mental health treatment information, and who you can contact if you have questions or a complaint about how we have used or shared your treatment records.

Generally, information from your treatment record cannot be released without your written consent. In limited circumstances, however, the law may allow or require release of records or information to certain individuals, governmental agencies or provider organizations. Most disclosures will be noted in your record, and you are entitled to learn about them upon request. The law states that notations do not have to be kept when records are disclosed to the Mental Hygiene Legal Service, quality of care reviewers, or government finance agents dealing with payments. The law also says that for disclosures made to insurance companies licensed under the State Insurance Law, such a notation needs to be entered only at the time the disclosure is first made.

Access to Records

You must be given an opportunity to inspect your clinical record when you have submitted a written request. The law does allow some limitations on this access, based on clinical justification. In addition, you have the right to request that your physician discuss your treatment record with you.

If you request an inspection or a copy of your record, a program can impose a reasonable charge for all inspection and copies. The charge cannot exceed what these services actually cost the program. In no case can a program charge more than 75 cents per page.

If you disagree with some part of your record, you can submit a written statement challenging the information in the record to be permanently attached to the record.

You may ask to have your record sent to any other service provider or your attorney. If you are under age 18, a parent or legal guardian may make this request.

Problems or Complaints

You have the right to information on how to make a complaint. A provider of service must give a notice of recipients' rights to each person upon admission, and post the rights in an easily accessible location.
If you have a problem or complaint, the person who runs the program is responsible for making sure your rights are protected. If this does not work, or is inappropriate, there are other organizations that can help.

For assistance

A staff member, such as the personal service coordinator or principal contact person, or director of the program.

New York State Office of Mental Health
44 Holland Ave., Albany NY 12229
Toll free: 1-800-597-8481, En Espanol: 1-800-210-6456

The Justice Center
161 Delaware Avenue
Delmar, NY 12054
1-855-313-2122

Protection and Advocacy System and Client Assistance Program
Disability Rights NY
725 Broadway, Suite 450
Albany, NY 12207
1-800-993-8982

Mental Hygiene Legal Service

First Judicial Department
41 Madison Ave., 26th floor, New York NY 10010
1-212-779-1734

Second Judicial Department
170 Old Country Road, Mineola NY 11501
1-516-746-4545

Third Judicial Department
40 Steuben Street, Suite 501, Albany, NY 12207
1-518-474-4453

Fourth Judicial Department
50 East Ave., Suite 402, Rochester NY 14604
1-585-530-3050

National Alliance for the Mentally Ill of New York State
99 Pine Street, Suite 302
Albany NY 12207
1-800-950-3228

To contact **The Joint Commission** or to express concern about this organization, email: **patientsafetyreport@jointcommission.org**

PATIENT RIGHTS
INFORMATION REVIEW

Name: Date of Birth:

Four Winds Saratoga Partial Hospital /
Intensive Outpatient Services

As a Patient in Four Winds Saratoga Partial Hospital / Intensive Outpatient services, I know I have the Right to:

PATIENT'S BILL OF RIGHTS

At the time of admission, the patient's rights with respect to outpatient mental health treatment, as well as program rules and regulations are explained to the patient (and family, if appropriate).

Four Winds Saratoga patients shall be afforded the right to:

1. Considerate and respectful care in a manner that assures non-discrimination which acknowledges and is respectful of their ethic and cultural environment;

2. Freedom from abuse and mistreatment;

3. The name of the physician responsible for coordinating his/her care;

4. The name and function of any person providing health care services to the patient;

5. Obtain from his/her physician complete current information concerning his diagnoses, treatment and prognosis in terms the patient can be reasonably expected to understand. When it is not medically advisable to give such information to the patient, the information shall be made available to an appropriate person in his/her behalf;

6. Receive from his/her physician the information necessary to give informed consent prior to the start of any procedure or treatment, or both, and which, except for those emergency situations not requiring an informed consent, shall include as a minimum the specific procedure or treatment, or both, the medically significant risks involved, and the probable duration of incapacitation, if any. The patient shall be advised of medically significant alternatives for care or treatment, if any;

7. Request a review of his/her medical record and receive a complete explanation of the procedure(s) by which appropriate access to the medical record is obtained;

8. Refuse treatment to the extent permitted by law and to be informed of the medical consequences of his/her action;

9. Privacy to the extent consistent with providing adequate medical care to the patient. This shall not preclude discreet discussion of a patient's care or examination of a patient by appropriate health care personnel;

10. Privacy and confidentiality of all records pertaining to the patient's treatment except as otherwise provided by law or third party contract. When indicated, the patient's record shall contain documentation that the rights of the patient and patient's families are protected;

11. A response by the hospital in a reasonable manner to the patient's request for service customarily rendered by the hospital consistent with the patient's treatment;

12. A response by the hospital in a reasonable and timely manner to the patient's need for appropriate medical care not customarily rendered by the hospital;

13. Be informed by his/her physician or delegate of the physician of the patient's continued mental and physical health care requirements following discharge and that before transferring a patient to another facility the hospital first inform the patient of the need for and alternative to such a transfer;

14. A response by the hospital in a reasonable, timely manner to the patient's complaint of physical pain, acute and chronic. Appropriate interventions, education and referral as applicable.

15. The identity, upon request, of other health care and educational institutions that the hospital has authorized to participate in his/her treatment;

16. Examine and receive an explanation of his/her bill, regardless of source of payment;

17. Know the hospital rules and regulations that apply to his/her conduct as a patient;

18. Services within the least restrictive environment as possible; to be informed/educated of methods to assist in anger management, interventions to safety of self/others all in least restrictive way.

19. An individualized treatment plan which is periodically reviewed;

20. Actively participate with their responsible parents or relatives in planning for treatment;

21. Request the opinion of a consultant, at his or her own expense, or request an in-hospital review of the patient’s individual treatment plan;

22. Receive a written statement of the patient's rights and a copy is posted in each patient unit;

23. Be informed of their rights in a language the patient understands;

24. The current and future use and disposition of products of audio-visual techniques;

25. To receive full explanation of any research project and the right to refuse participation in any research project;

26. Be informed of the hospital's responsibility, when the patient refuses treatment, to seek appropriate legal alternatives or orders of involuntary treatment with professional standards, to terminate the relationship with the patient upon reasonable notification;

27. Be informed of the source of the facility's reimbursement and any limitations placed on the duration of services;

28. Be informed of any changes in the professional staff responsible for the patient or any transfer of the patient within or out of the hospital;

29. To initiate a complaint or grievance through the program leadership and/or risk management director at extension 3464.

30. Be informed of the address and phone numbers of the following agencies:

    a. Commission on Quality of Care for the Mentally Disabled
    401 State Street
    Schenectady, NY 12305
    (518)388-2888 or 1-800-624-4143

    b. Protection and Advocacy for Mentally Ill Individuals Program
    401 State Street
    Schenectady, NY 12305
    (518)388-2888 (same as above)

    c. NYS Office of Mental Health
    44 Holland Avenue
    Albany, New York 12229
    800-597-8481

    d. Mental Hygiene Legal Service
    200 Great Oaks Blvd.
    Suite 223
    Albany, NY 12203
    Phone: (518) 471-4870
    Fax: (518) 451-8730

    e. Joint Commission on Accreditation of Health Organizations
    One Renaissance Blvd.
    Oakbrook Terrace, IL 60181

31. Audio-visual equipment and other procedures where consent is required by law, no such procedure shall be implemented without full consultation with the patient and/or family with full explanation of the reasons and efficacy of such. The use of such techniques shall be employed only in the service of augmented and/or enhanced patient care or for the purpose of internal educative functions for the staff. In either case, following the appropriate explanation, the patient has full right of refusal to participate in such procedures without prejudice to his/he continued stay and treatment at the hospital. In all such cases, written consent shall be obtained prior before implementation of such techniques.

32. Receive all necessary information concerning their rights under the New York State Health Care Proxy Law, and (assistance by the program in completing all necessary procedures relevant to his/her preferred advance directive(s).

Note: Patient is given original and the program maintains a photocopy.

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Reviewed/Revised: 2/89, 11/92, 12/94, 6/95, 5/98, 8/00, 5/01, 7/01, 3/03, 4/03, 4/06, 1/18

Four Winds Saratoga
30 Crescent Avenue
Saratoga Springs, NY 12866

518-584-3600 1-800-888-5448
www.fourwindshospital.com
If you have any questions about this Notice please contact the Hospital's Privacy Officer, Erin Dorflinger, LCSW-R 518-584-3600 ext. 3286

Your Information. Your Rights. Our Responsibilities.

This notice describes how medical information about you may be used and disclosed and how you can get access to this information. **Please review it carefully.**

Your Rights

When it comes to your health information, you have certain rights. This section explains your rights and some of our responsibilities to help you.

For certain types of disclosures of information in your medical record at a psychiatric hospital, New York State law may be more stringent than the federal law. For example the New York Mental Hygiene Law generally does not permit the disclosure of a clinical record except under circumstances specifically set forth in the law. The Hospital will follow New York law when it is more restrictive.

Get an electronic or paper copy of your medical record	You can ask to see or get an electronic or paper copy of your medical record and other health information we have about you. Ask us how to do this. We will provide a copy or a summary of your health information, usually within 10 days of your request. We may charge a reasonable, cost-based fee.
Ask us to correct your medical record	You can ask us to correct health information about you that you think is incorrect or incomplete. Ask us how to do this. We may say "no" to your request, but we'll tell you why in writing within 60 days.
Request confidential communications	You can ask us to contact you in a specific way (for example, home or office phone) or to send mail to a different address. We will say "yes" to all reasonable requests.
Ask us to limit what we use or share	• You can ask us not to use or share certain health information for treatment, payment, or our operations. • We are not required to agree to your request, and we may say "no" if it would affect your care. • If you pay for a service or health care item out-of-pocket

	in full, you can ask us not to share that information for the purpose of payment or our operations with your health insurer. • We will say “yes” unless a law requires us to share that information.
Get a list of those with whom we’ve shared information	• You can ask for a list (accounting) of the times we’ve shared your health information for six years prior to the date you ask, who we shared it with, and why. • We will include all the disclosures except for those about treatment, payment, and health care operations, and certain other disclosures (such as any you asked us to make). We’ll provide this accounting for free.
Get a copy of this privacy notice	• You can ask for a paper copy of this notice at any time, even if you have agreed to receive the notice electronically. We will provide you with a paper copy promptly.
Choose someone to act for you	• If you have given someone medical power of attorney or if someone is your legal guardian, that person can exercise your rights and make choices about your health information. • We will make sure the person has this authority and can act for you before we take any action.
File a complaint if you feel your rights are violated	• You can complain if you feel we have violated your rights by contacting Erin Dorflinger, LCSW-R, at 518-584-3600 ext. 3147. • You can file a complaint with the U.S. Department of Health and Human Services Office for Civil Rights by sending a letter to 200 Independence Avenue, S.W., Washington, D.C. 20201, calling 1-877-696-6775, or visiting www.hhs.gov/ocr/privacy/hipaa/complaints/. • We will not retaliate against you for filing a complaint.

Your Choices

For certain health information, you can tell us your choices about what we share.
If you have a clear preference for how we share your information in the situations described below, talk to us. Tell us what you want us to do, and we will follow your instructions.

In these cases, you have both the right and choice to tell us to:	• Share information with your family, close friends, or others involved in your care • Share information in a disaster relief situation *If you are not able to tell us your preference we may go ahead and share your information if we believe it is in your best interest. We may also share your information when needed to lessen a serious and imminent threat to health or safety.*

Our Uses and Disclosures

How do we typically use or share your health information? We typically use or share your health information in the following ways.

To treat you	• We can use your health information and share it with other professionals who are treating you.	*Example: The psychiatrist treating you may ask your outpatient psychiatrist about your treatment.*

Run our organization	• We can use and share your health information to run our hospital, improve your care, and contact you when necessary.	*Example: We use health information about you to manage your treatment and services.*
Bill for your services	• We can use and share your health information to bill and get payment from health plans or other entities.	*Example: We give information about you to your health insurance plan so it will pay for your services.*

How else can we use or share your health information? We are allowed or required to share your information in other ways – usually in ways that contribute to the public good, such as public health and research. We have to meet many conditions in the law before we can share your information for these purposes. For more information see: **www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/index.html.**

Help with public health and safety issues	• We can share health information about you for certain situations such as: • Preventing disease • Helping with product recalls • Reporting adverse reactions to medications • Reporting suspected abuse, neglect, or domestic violence • Preventing or reducing a serious threat to anyone's health or safety
Do research	• We can use or share your information for health research. All research projects for patients receiving psychiatric services are subject to a special approval process under New York law.
Comply with the law	• We will share information about you if state or federal laws require it, including with the Department of Health and Human Services or the NYS Office of Mental Health if it wants to see that we're complying with federal and/or state privacy law. • We can share health information about you in response to a court or administrative order, or in response to a subpoena. • For workers' compensation claims • For law enforcement purposes or with a law enforcement official • With health oversight agencies for activities authorized by law • For special government functions such as military, national security, and presidential protective services.
Inmates	If you are an inmate of a correctional facility, we may disclose medical information necessary for making a determination regarding your health care, security, safety or ability to participate in programs when the chief administrative officer of the facility has made a request for it.
Work with a medical examiner	• We can share health information with a coroner or medical examiner when an individual dies.

Respond to organ and tissue donation requests	We can share health information about you with organ procurement organizations.
Other	We do not create or manage a hospital directory. We do not contact patients for marketing or fundraising efforts.

Our Responsibilities

- We are required by law to maintain the privacy and security of your protected health information.
- We will let you know promptly if a breach occurs that may have compromised the privacy or security of your information.
- We must follow the duties and privacy practices described in this notice and give you a copy of it.
- We will not use or share your information other than as described here unless you tell us we can in writing. If you tell us we can, you may change your mind at any time. Let us know in writing if you change your mind.

For more information see:
www.hhs.gov/ocr/privacy/hipaa/understanding/consumers/noticepp.html.

Changes to the Terms of This Notice

We can change the terms of this notice, and the changes will apply to all information we have about you. The new notice will be available upon request, in our office, and on our web site.

Effective date of this Notice: 09/23/2013.

This Notice of Privacy Practices applies to Four Winds Saratoga.

Advance Directives

Planning For Your Mental and Physical Health Care and Treatment

30 Crescent Avenue
Saratoga Springs, New York 12866

1-518-584-3600 ♦ 1-518-580-1514

www.fourwindshospital.com

An Advance Directive is a type of written or verbal instruction about health care to be followed if a person becomes unable to make decisions regarding his or her medical treatment. Because you prepare an Advance Directive when you are competent, it will be followed during periods of time when you lack capacity to make medical treatment decisions. There are several different types of Advance Directives, including a *health care proxy,* a *living will,* and a *do not resuscitate (DNR) order.* Each one of these is described in this pamphlet.

Why should I create an Advance Directive?

Sometimes, because of illness or injury, people are not able to decide about treatment for themselves. You may want to plan in advance and create an Advance Directive to appoint a health care agent and/or make your wishes and instructions known regarding your mental and physical health care, so that these wishes may be followed if you become unable to decide for yourself for a short or long term period. If you don't plan ahead, family members or other people close to you may not be allowed to make decisions for you or follow your wishes, and/or no one will know what treatment choices you may have preferred.

How do I create an Advance Directive?

You can use the form and directions in this pamphlet or have an attorney create an alternative form for you. The New York State Department of Health can provide you with forms and information regarding Advance Directives as well.

Can anyone refuse to provide me with mental or physical health treatment because I have created an Advance Directive?

No. It is against the law for treatment providers to discriminate against someone because he or she has an Advance Directive.

On what basis will a physician determine that I am incapable of making mental and physical health care decisions?

Your capacity to consent to mental and physical health care is determined by your ability to understand the nature and consequences of health care decisions, including the benefits, risks, and alternatives to proposed treatment, and then to make an informed choice.

Can I make decisions in advance using an Advance Directive about whether or not I want involuntary psychiatric hospitalization?

No. New York State Mental Hygiene Law Article 9 governs the admission of patients to a hospital for involuntary psychiatric care. You therefore cannot make decisions regarding whether or not to undergo involuntary psychiatric hospitalization in an Advance Directive.

If I object to any mental health treatment when my Advance Directive is in effect, will my objection be honored?

Your present objection to treatment will override the instructions contained in your Advance Directive and/ or the decisions made by your health care agent. You will have the same rights regarding your present objection to treatment that you would have had *if* you made no Advance Directive.

GENERAL QUESTIONS ABOUT ADVANCE DIRECTIVES

If I wish to use the attached form as my Advance Directive, must I complete the entire form?

If you choose to use the attached form, you should make sure that your name is stated at the beginning of each form and that the section regarding signatures and witnesses is completed as necessary. However, you can choose whichever other sections within the form regarding your treatment decisions that you wish to complete. *It is your choice whether to fill out this form and what provisions to include in it.*

May anyone help me to fill out the Advance Directive form in this pamphlet?

You may ask anyone you wish to help you fill out the Advance Directive form. You may want to discuss its provisions with your mental or physical health care treatment providers. A mental health peer advocate who has been trained to assist in preparing Advance Directives may also be helpful. However, you must make the final decisions and sign the Advance Directive; you cannot be forced to fill out an Advance Directive by anyone, including a family member or treatment provider.

To whom should I give copies of my Advance Directive?

You should give copies of your Advance Directive to your health care agent and alternate agent (if you have appointed them), to the treatment providers and health care professionals who routinely provide care to you, and to your family or friends. You may also want to give a copy to the hospital where you are likely to be treated if the need arises, and to keep a copy with your important papers.

HEALTH CARE PROXIES

What is a Health Care Proxy?

A New York Law called the Health Care Proxy Law allows you to appoint someone you trust and who knows you well, such as a family member or close friend, who will agree to act in your best interests regarding your health care if you lose the ability to make decisions about treatment for yourself. The document in which you appoint this person as your health care agent is called a Health Care Proxy.

What is the purpose of a Health Care Proxy?

The Health Care Proxy Law gives you the power to ensure that health care professionals know your wishes regarding medical treatment. Your health care 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.

If I appoint a health care agent, how much authority does he or she have to make treatment decisions on my behalf?

You can give your agent as little or as much authority as you want. You can allow your agent to decide about all health care or only certain treatments. For example, you may appoint a health care agent to make decisions only about your mental health care. However, you may not appoint more than one health care agent to act at a given time (e.g., you cannot appoint one for physical health care decisions and one for mental health care decisions). If your health care agent is not aware of your wishes about artificial nutrition and hydration (nourishment and water provided by feeding tubes), he or she will not be able to make decisions about these measures.

You may also give your agent instructions that he or she has to follow. Your agent must follow your verbal and written instructions, as well as your moral and religious beliefs. You may include a living will and/or a statement of your preferences and desires regarding medical treatment with your health care proxy, which can provide a useful resource for your health care agent. If your agent does not know your wishes and beliefs, your agent is legally required to act in your best interests.

How does appointing a health care agent empower me?

Appointing an agent lets you control your medical treatment by:

❑ allowing your agent to stop treatment when he or she decides that is what you would want or what is best for you under the circumstances; and

❑ choosing one person to decide about treatment because you think that person would make the best decisions or because you want to avoid conflict or confusion about who should decide.

What are the advantages of creating a Health Care Proxy?

The purpose of the Health Care Proxy law is to give a person of your choice the authority to speak for you when you are incapacitated to ensure that decisions regarding your medical treatment are made in accordance with your wishes, including your religious and moral beliefs if known to your agent, or, if your agent does not know your views, in accordance with your best interests. Therefore, a major advantage in appointing a health care agent through a Health Care Proxy is that you do not have to know in advance all the 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. The Health Care Proxy is just as useful for decisions to receive treatment as it is for decisions to stop treatment.

What are the disadvantages of creating a Health Care Proxy?

It is very important that the person you choose to be your health care agent be an adult that you trust to protect your wishes and interests. If there is no such adult in your life, you may wish to consider a Living Will to provide guidance about your attitudes and preferences regarding your medical care.

Who should I choose to be my health care agent?

The health care agent must be an adult 18 years of age or older. It is not necessary that he or she reside in New York State. You should choose a person you trust to protect your wishes and interests.

An operator, administrator or employee of a general hospital, nursing home, mental hygiene facility, or hospice cannot serve as an agent for you if you are a patient at the facility, unless you are related to the person you wish to appoint, or you created the Health Care Proxy before being admitted to, or applying for admission to, the facility.

You can appoint your physician as your agent, but the physician will not be able to serve both as your agent and your attending physician after his or her decision-making authority as your agent begins. Furthermore, if you appoint a physician as your agent, that physician cannot determine your capacity to make health care decisions.

How can I appoint a health care agent?

All competent adults can appoint a health care agent by signing a form called a Health Care Proxy. You don't need a lawyer, just two adult witnesses. You can use the form in this pamphlet, but you don't have to.

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

Your health care agent would begin to make treatment decisions after doctors decide that you are not able to make health care decisions. If you regain capacity to make health care decisions, the health care agent's decision making authority ends. *As long as you are able to make treatment decisions for yourself, you will have the right to do so.*

***Will* my agent's decisions be honored?**

All hospitals, doctors, and other health care facilities are legally required to honor the decisions by your agent, unless they obtain a court order overriding the decision.

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

You can appoint an alternate agent to decide for you if your health care agent is not available or able to act when decisions must be made. Otherwise, health care providers will make treatment 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 are the requirements for signing and witnessing a Health Care Proxy?

You must sign and date a Health Care Proxy in order for it to be enforceable. You must include the name of your agent and state that you intend the agent to make health care decisions for you.

You must sign the Health Care Proxy in the presence of two witnesses who are 18 years of age or older. Neither witness can also be the person who you are appointing as your health care agent. The witnesses must also sign the document and state their belief that you are personally known to them, you appear to be of sound mind, and you are acting of your own free will. If you create your Health Care Proxy while you are a resident in a facility operated or licensed by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities, one of those witnesses cannot be affiliated with that facility. And, if the facility in which you reside is a hospital, at least one of those witnesses must be a "qualified" psychiatrist (i.e., he or she is board eligible or board certified).

What if I change my mind?

You should review your Health Care Proxy periodically to ensure that the document you signed still represents your current wishes. It is easy to cancel the proxy, to change the person you have chosen as your health care agent, or to change any treatment instructions you have written on your Health Care Proxy form. All you need to do is fill out a new form, or simply state that the Health Care Proxy is revoked.

You should notify your agent, your attorney, your physician or any other health care provider, your family and friends, and anyone who has a copy, verbally and in writing, of your change or revocation.

How long is a Health Care Proxy valid?

The Health Care Proxy will be valid unless and until you cancel it. In addition, you can require that the Health Care Proxy expire on a specified date or if certain events occur. If you choose your spouse as your health care agent and you get divorced or legally separated, the appointment is automatically canceled.

LIVING WILLS

What is a Living Will?

A Living Will is a written document in which you, as an adult who is now competent, can express your wishes regarding your future health care in the event that you are unable to make health care decisions. You can also include a statement of your preferences and desires regarding medical treatment with your Living Will, which can provide a useful resource for your treatment providers.

Is a Living Will valid in New York State?

Unlike the Health Care Proxy, there is no specific law in New York that establishes Living Wills. However, the courts in New York have honored Living Wills that have established a person's wishes by "clear and convincing proof" That is, it must be shown that the person who has become incapable had previously given clear and specific instructions regarding a certain type of medical care or procedure.

What is the difference between a Living Will and a Health Care Proxy?

A Living Will is a document in which you can give specific instructions about your health care treatment, as well as express your attitudes and wishes about your health care.
A Health Care Proxy is different because it allows you to choose someone you trust to make treatment decisions on your behalf in case you lose your decision-making capacity. With a Health Care Proxy, you don't need to know in advance what will happen to you or what your medical needs might be in the future.

How does creating a Living Will empower me?

A Living Will serves to make your wishes and instructions known regarding your mental and physical health care, if you become incapable of making treatment decisions. Treatment providers should follow your specific instructions. The instructions you write in this document would be evidence of your expressed wishes in the event that your wishes are challenged in court.

What are the advantages of a Living Will?

If you have no one you can appoint to be your health care agent, or you do not wish to appoint one, yet you still want to make your wishes about your health care preferences known, a Living Will is a legally valid way of recording these instructions. This information will provide evidence of your wishes should you become incapable of making treatment decisions.

What are the disadvantages of a Living Will?

General instructions about refusing treatment, even if written down, may not be effective if they do not meet the "clear and convincing proof' test. Further, expressions of intent regarding unforeseen circumstances or new developments in technology cannot be reflected in a Living Will unless it is routinely updated.

Can I create both a Health Care Proxy and a Living Will?

Yes. If you complete a Health Care Proxy faun, but also have a Living Will, the Living Will provides instructions for your health care agent, and will guide his or her decisions. Copies of your Living Will should be given to your health care agent. You will want to have your health care agent share the views expressed in the Living Will with your health care providers to make sure your wishes are

understood. With both documents, if you include a statement of your preferences regarding your medical treatment, it will provide additional useful guidance.

What are the requirements for signing and witnessing a Living Will?

Because there is not a specific law that governs Living Wills, there are no exact requirements with regard to signatures and witnesses. However, it is recommended that you follow the requirements for signing and witnessing a Health Care Proxy when executing a Living Will.

What if I change my mind?

You should review your Living Will from time to time to ensure that the document you signed still represents your current wishes. You can change or revoke your Living Will by making a new one, destroying it, or simply stating that it is revoked. You should be sure to tell your treatment providers and your family and/or friends that you have revoked your Living Will.

How long is a Living Will valid?

The Living Will should be valid unless and until you revoke it.

DO NOT RESUSCITATE (DNR) ORDERS

What is a Do-Not-Resuscitate (DNR) Order?

Cardiopulmonary resuscitation (CPR) refers to the medical procedures used to restart a person's heart and breathing when the person suffers heart failure. CPR may involve simple efforts such as mouth-to-mouth resuscitation and external chest compression. Advance 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. A DNR order is only a decision about CPR and does not relate to any other treatment.

Can I request a DNR Order?

Yes. All adult patients can request a DNR order.
If you have not requested a DNR order and have not appointed a health care agent to decide for you, a family member or close friend can consent to a DNR order when you are terminally ill, permanently unconscious, 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.

How can I make my wishes about DNR known?

During hospitalization, an adult patient may consent to a DNR order verbally or in writing, if two adult witnesses are present. When consent is given verbally, 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.

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 of the DNR order. It would be best if you discussed your wishes about CPR with your doctor in advance.

What if I change my mind?

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

ADVANCE DIRECTIVES

NOTE: THESE DIRECTIONS AND FORMS ARE NOT INTENDED TO CONSTITUTE LEGAL ADVICE. YOU MAY WISH TO CONSULT WITH YOUR OWN ATTORNEY FOR ADVICE SPECIFIC TO YOUR SITUATION.

I, ____, hereby make known my desire that, should I lose the capacity to make health care decisions, the following are my instructions regarding consent to or refusal of medical treatment, and if I choose the designation of my health care agent. I intend that all completed sections of this advance directive be followed.

PART I. HEALTH CARE PROXY

A. APPOINTMENT OF A HEALTH CARE AGENT: I hereby appoint the following individual as my health care agent to make any and all health care decisions for me, except to the extent that I state otherwise. This health care proxy shall take effect when and if I become unable to make my own health care decisions.

____
(Agent's Name)

____
(Agent's Home Address)

____
(Agent's Telephone Number)

B. AUTHORITY OF HEALTH CARE AGENT: My health care agent may make decisions regarding* (choose ONE):

- ❑ all mental and physical health care
- ❑ mental health care ONLY
- ❑ physical health care ONLY
- ❑ the following health care decisions ONLY ____

____

____

**Note. While you may limit your health care agent's decision-making authority, you cannot appoint more than one health care agent at a time. For example, you cannot appoint one health care agent to make only physical health care decisions and another one to make only mental health care decisions.*

C. ALTERNATE HEALTH CARE AGENT *(optional):* If the person appointed above is unable or unwilling to serve as my health care agent, I hereby appoint the following individual to act as my alternate health care agent.

(Agent's Name)

____
(Agent's Home Address)

____
(Agent’s Telephone Number)

____

D. DURATION OF PROXY: Unless I revoke it, this health care proxy shall remain in effect indefinitely, or until the date or conditions stated below. This proxy shall expire (specify date or conditions, if desired):

____

PART II. STATEMENT OF DESIRES AND INSTRUCTIONS REGARDING MENTAL AND PHYSICAL HEALTH CARE AND TREATMENT

I direct my agent to make health care decisions in accordance with my wishes and limitations as stated in this Advance Directive, or as he or she otherwise knows. If I have not appointed a health care agent, I wish my health care providers to act in accordance with my instructions as stated below.

____

____

____

____

[Note: Unless your agent knows your wishes about artificial nutrition and hydration (tube feeding), your agent will not be allowed to make decisions about artificial nutrition and hydration.]

A. SPECIAL INSTRUCTIONS REGARDING MY MENTAL HEALTH CARE AND TREATMENT

1. Medications for Psychiatric Treatment: If it is determined that I am not legally capable of consenting to or refusing medications relating to my mental health treatment, my wishes are as follows:

(a) I prefer to be given the following medications
Medication Name:

____

____

____

(b) I prefer not to be given the following medications, for the following reasons:

Medication: ____

Reason: ____

Medication: ____

Reason: ____

Medication: ____

Reason: ____

2. Treatment Facilities: If my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care the following are my instructions.

(a) I would prefer to receive this care at the following hospitals or programs/facilities, if possible:

____

____

____

____

____

(b) I prefer not to receive this care at the following hospitals or programs/facilities, if possible, for the reasons I have listed:

Facility____

Reason: ____

Facility:____

Reason: ____

(c) My choice of treating physician, if possible, is:

____________________________________ Phone # ____________________

OR

____________________________________Phone # ____________________

OR

____________________________________ Phone # ____________________

(d) I do not wish to be treated by the following physicians, if possible, for the reasons stated:

Doctor’s Name: ____

Reason: ____

Doctor’s Name: ____

Reason: ____

3. Additional Instructions Regarding My Mental Health Care: (e.g., individual psychotherapy, group therapy, electroconvulsive therapy, self-help services, research):

____

____

____

____

____

B. SPECIAL INSTRUCTIONS REGARDING MY PHYSICAL HEALTH CARE AND TREATMENT

1. These wishes should be followed if *(choose one of the following)*

❑ I am terminally ill, in a coma or unconscious, or in an irreversible condition from which there is no reasonable hope of recovery, OR

❑ the following medical conditions exist:

____

____

2. Medical treatments about which you may wish to give your agent or health care providers special instructions include the following treatments. Write instructions for each treatment you choose on the lines provided.

❑ Artificial respiration: ____

❑ Artificial nutrition and hydration: ____

❑ Cardiopulmonary resuscitation: ____

❑ Antibiotics: ____

❑ Dialysis: ____

❑ Transplantation: ____

❑ Blood transfusions or blood products: ____

❑ Invasive diagnostic tests: ____

❑ Other physical health treatments or medications:

____

Additional instructions regarding physical health care and treatment:

____

____

____

____

____

PART III. IMPORTANT INFORMATION IF I AM HOSPITALIZED

(You may choose to complete this section to provide additional guidance to your health care agent and/or providers.)

I wish to provide the following information regarding my current mental health care and treatment and to state my preferences regarding mental health care and treatment, in the event I am hospitalized. I strongly hope that my stated preferences will be honored to assist me in having more control over my life and to aid in my recovery

A. MY PHYSICIAN AND/OR PSYCHIATRIST'S NAME AND ADDRESS:

____

____

____

B. MY OUTPATIENT MENTAL HEALTH CARE PROVIDER(S):

____

____

____

____

C. APPROACHES THAT HELP ME WHEN PM HAVING A HARD TIME

____

If I am having a hard time, the following approaches have been helpful to me in the past. I would like the staff to try to use these approaches with me:

__Voluntary time out in my room
__Voluntary time out in quiet room
__Sitting by myself
__Talking with a peer
__Having my hand held
__Going for a walk
__Punching a pillow
__Writing in a journal
__Lying down
__Talking with staff
__Listening to music
__Reading
__Watching TV
__Pacing the halls
__Calling a friend
__Calling my therapist
__Pounding some clay
__Deep breathing exercises
__Taking a shower
__Exercising
__Other______________________________

D. ACTIONS THAT ARE NOT HELPFUL: In the past, I have found that the following actions make me feel worse. I prefer that staff not do the following:

____

____

____

____

E. PREFERENCES REGARDING PHYSICAL CONTACT BY STAFF:

____

____

____

F. HOSPITAL AND COMMUNITY TREATMENT PROGRAMS: (outpatient clinics, community based residential facilities, community support programs, self-help programs, etc.) Upon my discharge, if possible, I would like to receive treatment from the following hospitals and community treatment programs:

____

____

____

Upon my discharge, if possible, I do not want to receive treatment from the following hospitals or community treatment programs for the reasons listed:

Provider: ____

Reason: ____

Provider: ____

Reason: ____

G. ADDITIONAL PREFERENCES REGARDING MY MENTAL H EALTH CARE AND TREATMENT:

____

____

____

PART IV. SIGNATURE AND STATEMENT OF WITNESSES

A. Your Signature ____

Address: ____

Date: ____

B. Statement by Witnesses (must be age 18 or older)

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:

____

(Name - Psychiatrist)

Four Winds Hospital ____

(Address)

Witness 2:

____

(Name)

____

(Address)

NOTE: If you are a resident at an OMH or OMRDD operated or licensed facility, special witnessing requirements apply. See instructions or ask staff to assist you.