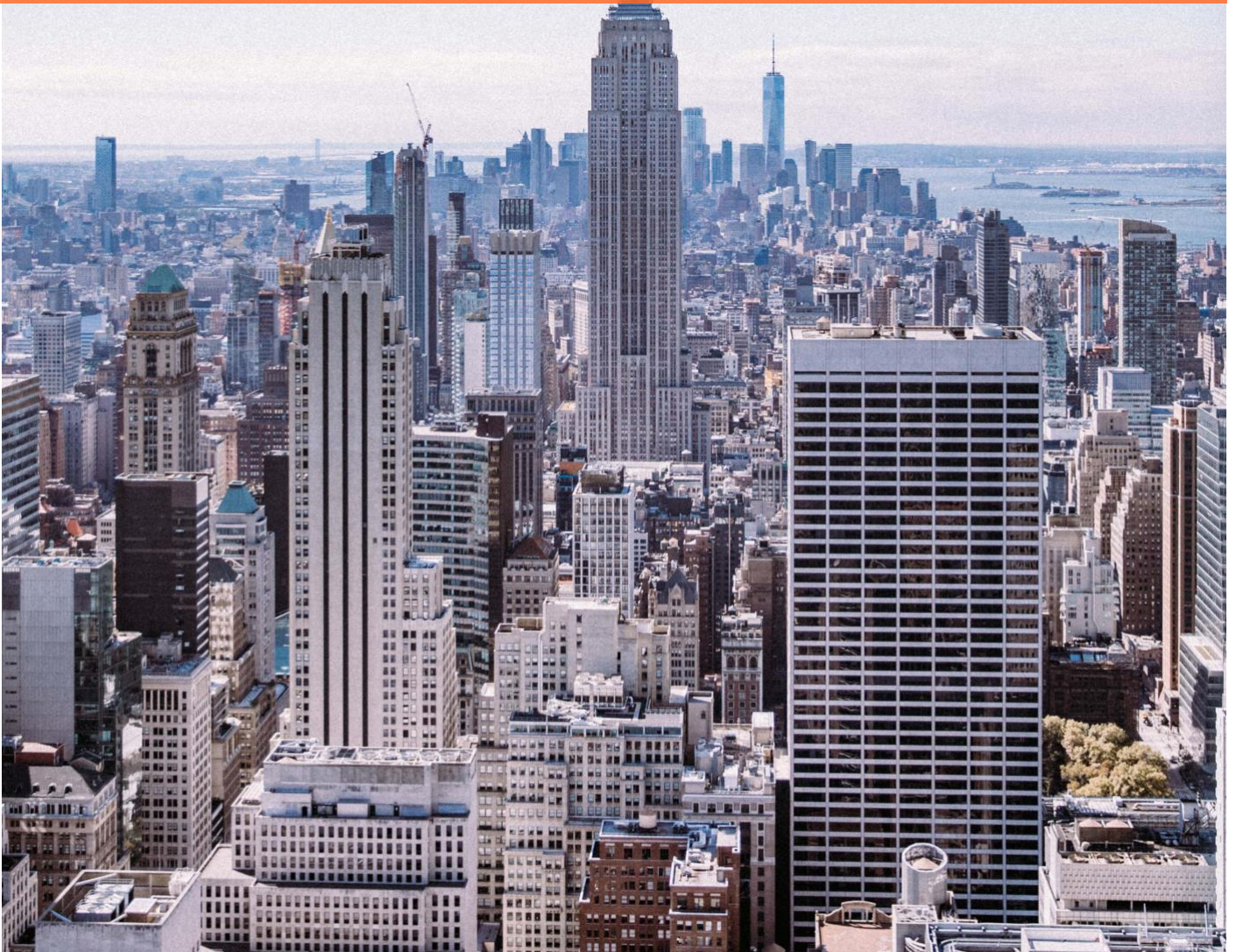


# ADVANCE DIRECTIVES

*A Guide to Creating Wills, Living Wills, Healthcare Proxy,  
Power of Attorney & Standby Guardianship*



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# INTRODUCTION

Regardless of your age, health, or financial situation, today is a great day to start preparing for your future. Preparing a few documents now can ensure your future reflects your values, improves your quality of life, and best protects you and your loved ones.

These legal documents, often called “Advance Directives,” can help you ensure that you will receive the end-of-life care you want and that your loved ones will get the things you want to leave them. We hope this guide helps you make decisions about your life no matter what the future may bring.

Below is basic information about and instructions for easily creating both a New York Last Will and Testament, and other advance directives (a general term for documents that guide end-of-life medical treatment). Although using a lawyer is best, it is typically better to draft these documents yourself than to have no documents protecting your wishes at all. If you get a lawyer later, you can always change these documents. **The content of this document has been prepared by Manhattan Legal Services for informational purposes only and is not legal advice. This information is not intended to create an attorney-client relationship, nor does receipt of this information constitute an attorney-client relationship. If you believe you need more comprehensive assistance, you should retain legal counsel.**

Please note that this guide is a starting point. If you live in Manhattan, Brooklyn, Queens, or Staten Island and are 60 years of age or older, or are HIV+, please feel free to call the Legal Services NYC hotline at 917-661-4500 to be screened in order to determine whether you are eligible for our services. If you are eligible for representation, Legal Services NYC can assist with basic Advance Directive needs. You may be referred to an external resource for more complex matters. Please refer to the end of this document for more resource information.

# DEFINITIONS

Documents explained in this guide include:

- **Last Will and Testament:** A will is a legal document which disposes of your property to any person or entity (such as a school, place of worship, or charity) you want (in legal talk we refer to these recipients as “beneficiaries”). A will decides what happens to your property after you die, subject to certain rights of a surviving spouse.
- **Living Will:** A living will is a legal document that protects your end-of-life medical wishes if, in the event that you are too sick to make those decisions yourself. The document only goes into effect if you can’t make these decisions and you have an incurable condition where you to decide whether or not you want to use life.
- **Healthcare Proxy:** A healthcare proxy is a legal document that lets you choose someone as your “agent” to make your medical decisions if you cannot make those decisions for yourself. Unlike a living will, which only covers your end-of-life care, a healthcare proxy covers all stages of life. The person you choose for this role, usually called an “agent” or a “medical power of attorney,” only has as much power as you give them.
- **Durable Power of Attorney:** A durable power of attorney lets you (the “principal”) appoint someone you trust (the “agent”) to execute documents and handle various financial transactions for you. You can specify what types of decisions the person is authorized to make — for example, taking out a loan in your name, applying for public benefits for you, withdrawing money from your bank accounts, and/or selling your property. You can also specify whether the document goes into effect immediately or after some future event (for example, after a doctor says that you aren’t able to make legal decisions).
- **Standby Guardianship:** Although not technically an advance directive, a standby guardianship is a document that allows a parent or legal guardian to name a temporary guardian for their children in certain situations. There are many situations where a person may want to designate a standby guardian, including forced separation from your child (for example, immigration detention or arrest), or if the parent loses the ability to make childcare decisions, or the parent can’t care for the child because of an illness. A Standby Guardianship takes effect immediately after the situation occurs, but it only lasts for 60 days unless the standby guardian asks the court to make them the child’s permanent guardian.



# LAST WILL AND TESTAMENT

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## INTRODUCTION:

### WHAT IS A LAST WILL AND TESTAMENT?

A last will and testament is a document which disposes of your property to any person or entity (such as a school, place of worship, or charity) you want (in legal talk we refer to these recipients as “beneficiaries”). A will decides what happens to your property after you die, subject to certain rights of a surviving spouse.

### DO I NEED A WILL?

While having a will is not required, this is a document that ensures your wishes are respected and helps with the process of settling your affairs. Having a will may be especially important if any of these apply to you:

You want to leave things to your chosen family, friends or a charity

You want specific people to get specific personal items

You want to make sure a particular person takes care of your minor child

You have pets and want to ensure their care

### OKAY, BUT WHAT HAPPENS IF I DON'T HAVE A WILL?

A complicated state law will control where your property goes, even if you have told people what you want. That law, in legal talk called “intestacy law,” distributes your property based on certain legally recognized relationships (like legal marriages, your children, parents, and siblings) and does not recognize other important relations like domestic partners, caretakers, and chosen family. Intestacy can result in an unknown distant relative inheriting all your property and your partner or caregiver getting nothing. But don't worry, you can protect your wishes by making a will.

### I DON'T HAVE A LAWYER, CAN I STILL MAKE A WILL?

You sure can! While it's best to have a lawyer review your will, it is better to have a self-made will than not to have a will. We hope this guide will give you the tools you need to create a will and to continue making decisions about your property.

## SCENARIO:

Pilar and Selma have been in a committed relationship for 10 years. They decided not to marry, but Pilar and Selma very much consider themselves to be spouses. Before meeting Selma, Pilar was married and had a son, Alexis. Pilar's marriage ended in divorce. Alexis has grown close to Selma over the years, and he considers her to be his stepmother. Pilar does not have a will because she thinks it isn't necessary, but she often told Selma that if anything ever happened to her, she wants Selma to have her grandmother's ring. Sadly, Pilar passed away suddenly after

a car accident. Since Pilar and Selma were not legally married, Alexis will inherit his mother's entire estate. Though Selma has held onto Pilar's ring, as Pilar told her she wanted, Alexis never knew his mother's wishes and he wants the ring for himself because it makes him feel closer to her. Without a will, Selma unfortunately has no rights to keep the ring. It is up to Alexis to decide whether he will allow Selma to have Pilar's ring.

## WHAT DO I NEED TO GET STARTED?

- **List all your property.** Depending on what you own, this list might include books you love, art, personal bank accounts, cash, jewelry real estate, a boat, or a car. You do not have to list every single item that you own, but you will want to include each item that you want to give to a particular person.
- **List your beneficiaries.** Write down the names, addresses, and phone numbers of each of your beneficiaries. Having as much contact information as possible is the best way to ensure your desired beneficiaries end up getting the property. If you don't have everyone's full contact information, include as much information as possible. You may also want to name beneficiaries who you would want to receive your "residuary estate." Your residuary estate is the remainder of your personal items not specifically listed in your will. By naming a "residuary estate," you are letting the person you have entrusted to carry out your wishes, also known as an "executor," know what to do with the remainder of your personal property. If you do not want to list specific beneficiaries to receive your residuary estate, you can also let your executor determine how to distribute these items.
- **Contact your executor.** In legal jargon, we call the person carrying out your wishes the "executor" of the will. This person should be someone you trust with your property. Almost anyone over the age of 18 can be an executor. After you decide on someone you trust, be sure to speak with this person before naming them as executor so that they understand your wishes and agree to taking on the role. Also, if you can, name a secondary executor, who will take on the role if the first executor is no longer willing or able to execute the will. These steps are important because without an executor, the court might appoint someone to the role that you don't know, and your estate will have to pay. Your executor can also be named as a beneficiary in your will. If you do not wish to name any beneficiaries in your will, you can also let your executor give away your things as they see fit. This means your executor can do anything they want with your property, including keeping it for themselves.

Congratulations – you just finished the hard part!

Two Last Will and Testament samples along with instructions on how to complete them are below. The first sample allows you to list specific personal items you would like to leave to beneficiaries. The second sample allows you to let your executor determine how your personal property will be distributed. Links to the Word samples of our two Last Will and Testament options can be found [here](#) and [here](#).

**NOTE:** You will need to have these forms translated into your native language before signing to ensure that you fully understand and agree with what you are signing.

## LAST WILL AND TESTAMENT - SAMPLE FORM 1:

### Last Will and Testament

I, [NAME] \_\_\_\_\_, residing in the County and State of New York, (a) make, publish and declare this to be my Last Will and Testament and (b) revoke all Wills and Codicils made before by me.

FIRST: I request that my enforceable debts, and my funeral and administrative expenses, be paid as quickly as possible.

SECOND *[Optional for Specific Gifts]*:

I give my \_\_\_\_\_ to my [father/partner/friend/etc.]  
\_\_\_\_\_ [NAME "A", ADDRESS, PHONE NUMBER]  
\_\_\_\_\_.

I give my \_\_\_\_\_ to my [father/partner/friend/etc.]  
\_\_\_\_\_ [NAME "B", ADDRESS, PHONE NUMBER]  
\_\_\_\_\_.

SECOND/THIRD:

A. I give all of my other property of any kind to my [father/partner/friend/etc.]  
\_\_\_\_\_ [NAME "A"], if [NAME "A"] \_\_\_\_\_ is  
alive when I die. If [NAME "A"] \_\_\_\_\_ is not alive when I die, and  
my [father/partner/friend/etc.] \_\_\_\_\_ [NAME "B"] is alive when I  
die, then I give all of my other property of any kind to [NAME "B"]  
\_\_\_\_\_.

B. If all of the people named in the above paragraph A die before me, I give the entirety of my estate to my Executor to keep or distribute in my Executor's sole and unreviewable discretion.

THIRD/FOURTH:

A. I appoint as my Executor [NAME and RELATION]

\_\_\_\_\_. If [Name of Executor]

\_\_\_\_\_ stops acting or fails to act as my Executor, I appoint

[NAME and RELATION] \_\_\_\_\_. If [Name of Executor]

\_\_\_\_\_ stops acting or fails to act as my Executor and

[Name of Secondary Executor] \_\_\_\_\_ stops acting or

fails to act as my Executor, I authorize [Name] \_\_\_\_\_

to appoint a person to act as my Executor. There must be a petition for court approval that is in writing and filed with the court responsible for probate.

B. Any Executor of my estate will not be required to get and/or post bond for the faithful performance of their duties as an Executor of this Will. Any Executor may quit acting as my Executor by asking the court in writing for permission to do so and then receiving the court's permission.

FOURTH/FIFTH: In performing their duties as my Executor, my Executor will have all of the powers necessary to handle and distribute my property that I would have if I were living.

FIFTH/SIXTH: If, when I die, any of my children are still minors, I appoint [NAME and RELATION] \_\_\_\_\_ as the guardian of the person and the property. [NAME of Guardian]

\_\_\_\_\_ will serve without bond. If [NAME of

Guardian] \_\_\_\_\_ for any reason cannot serve as guardian

or stops serving as guardian, I appoint [NAME and RELATION]

\_\_\_\_\_ as successor guardian.



IN WITNESS WHEREOF, I have hereto set my hand and seal this \_\_\_\_ day of  
[Month] \_\_\_\_\_, [Year] \_\_\_\_\_.

\_\_\_\_\_  
(L.S.)

This document, consisting of \_\_\_\_ pages,  
including this page, was signed, sealed,  
published and declared by [NAME]  
\_\_\_\_\_ as [NAME]'s  
\_\_\_\_\_ Last Will and  
Testament in our presence and hearing,  
and we, at [NAME]'s \_\_\_\_\_  
request, sign our names below while in  
[NAME]'s \_\_\_\_\_ presence  
and in the presence of each other as witnesses  
this \_\_\_\_ day of [MONTH] \_\_\_\_, [YEAR] \_\_\_\_\_.

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_



## LAST WILL AND TESTAMENT - SAMPLE FORM 2:

### Last Will and Testament

I, [NAME] \_\_\_\_\_, residing in the County and State of New York, (a) make, publish and declare this to be my Last Will and Testament and (b) revoke all Wills and Codicils made before by me.

FIRST: I request that my enforceable debts, and my funeral and administrative expenses, be paid as quickly as possible.

SECOND: I give all of my property of any kind to my Executor to distribute in my Executor's sole and unreviewable discretion. I have told my Executor my wishes but I understand that my Executor may keep or distribute the property as they decide.

THIRD/FOURTH:

A. I appoint as my Executor [NAME and RELATION]

\_\_\_\_\_. If [Name of Executor] \_\_\_\_\_ stops acting or fails to act as my Executor, I appoint [NAME and RELATION] \_\_\_\_\_. If [Name of Executor] \_\_\_\_\_ stops acting or fails to act as my Executor and [Name of Secondary Executor] \_\_\_\_\_ stops acting or fails to act as my Executor, I authorize [Name] \_\_\_\_\_ to appoint a person to act as my Executor. There must be a petition for court approval that is in writing and filed with the court responsible for probate.

B. Any Executor of my estate will not be required to get and/or post bond for the faithful performance of their duties as an Executor of this Will. Any Executor may quit acting as my Executor by asking the court in writing for permission to do so and then receiving the court's permission.

FOURTH/FIFTH: In performing their duties as my Executor, my Executor will have all of the powers necessary to handle and distribute my property that I would have if I were living.

FIFTH/SIXTH: If, when I die, any of my children are still minors, I appoint [NAME and RELATION] \_\_\_\_\_ as the guardian of the person and the property. [NAME of Guardian]

\_\_\_\_\_ will serve without bond. If [NAME of Guardian] \_\_\_\_\_ for any reason cannot serve as guardian or stops serving as guardian, I appoint [NAME and RELATION]

\_\_\_\_\_ as successor guardian.

IN WITNESS WHEREOF, I have hereto set my hand and seal this \_\_\_\_ day of [Month] \_\_\_\_\_, [Year] \_\_\_\_\_.

\_\_\_\_\_ (L.S.)

This document, consisting of \_\_\_\_ pages, including this page, was signed, sealed, published and declared by [NAME] \_\_\_\_\_ as [NAME]'s \_\_\_\_\_ Last Will and Testament in our presence and hearing, and we, at [NAME]'s \_\_\_\_\_ request, sign our names below while in [NAME]'s \_\_\_\_\_ presence and in the presence of each other as witnesses this \_\_\_\_ day of [MONTH] \_\_\_\_\_, [YEAR] \_\_\_\_\_.

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

SAMPLE ONLY





## INSTRUCTIONS:

Below are instructions for creating a Last Will and Testament based on the two samples provided.

**IMPORTANT: Do not add or delete sections of the will other than what is explained in the instructions. If you would like to make additional changes, speak with an attorney first. Making additional changes without consulting an attorney could result in your Last Will and Testament not being legally valid.**

### SAMPLE OPTION 1

- To create this document, insert your name in the first line to acknowledge that this is your last will and testament. The line entitled “FIRST” refers to any outstanding debts you may have, which include things like loans (with the exception of federal student loans), unpaid credit card debt, bills for services you have received but have not paid for yet, and gambling debts that are legally enforceable. Debts may also include the cost of your funeral. We recommend that you create a list of any debts you may have (credit cards, loans, etc.) as a separate document to make it easier for your executor (the person you have named in your will to carry out your final wishes).
- In section below, you will see a line entitled “SECOND.” This section lets you specify which items you want to give to specific individuals or entities (like a religious group or charity). Here, you want to fully describe each item and identify who you want to leave the item to by including the person’s or entity’s name, their relationship to you, and their address and phone number. The more contact information the better.
- You can add additional paragraphs to this section depending on how many personal items you would like to name in your will. Our sample provides two paragraphs for specific personal items. If you need to type in additional paragraphs, they should look like this:

I give my \_\_\_\_\_ to my  
[father/partner/friend/etc.] \_\_\_\_\_ [NAME “C”,  
ADDRESS, PHONE NUMBER]  
\_\_\_\_\_.

If you have only one specific item to name, please delete the second paragraph copied below because there should be no incomplete paragraphs within your Last Will and Testament:

I give my \_\_\_\_\_ to my  
[father/partner/friend/etc.] \_\_\_\_\_ [NAME “B”,  
ADDRESS, PHONE NUMBER]  
\_\_\_\_\_.

- Under ““SECOND/THIRD” you will see language that covers everything else that you own that you do not gift to a specific person or entity — in legal-talk we call this the “remainder provision.” The provision ensures that all your property is accounted for. You can designate one or more people or entities to receive the remainder of your property.

As above, make sure to list the person's name, address, and phone number. You can also name a secondary person who will get the remainder of your property in case the first person you name passes away before you do. We recommend naming a secondary person, if possible, but this is not required. Should both of these people pass away before you do, then the remainder of your property will go to the person you are naming as your executor (see next paragraph) to distribute as they see fit. If you are not naming a secondary person, please delete the section where you would input the name and contact information for a secondary person. The specific language you would delete is copied below.

**If [NAME "A"] \_\_\_\_\_ is not alive when I die, and my [father/partner/friend/etc.] \_\_\_\_\_ [NAME "B"] is alive when I die, then I give all of my other property of any kind to [NAME "B"] \_\_\_\_\_.**

## **SAMPLE OPTION 2**

- Insert your name in the first line to acknowledge that this is your last will and testament. The line entitled "FIRST" refers to any outstanding debts you may have, which include things like loans (with the exception of federal student loans), unpaid credit card debt, bills for services you have received but have not paid for yet, and gambling debts that are legally enforceable. Debts may also include the cost of your funeral. We recommend that you create a list of any debts you may have (credit cards, loans, etc.) as a separate document to make it easier for your executor (the person you have named in your will to carry out your final wishes).
- Under "SECOND" you will see language that allows you to leave all your property to your Executor to determine how to distribute rather than itemizing any personal property as is available with Sample Option 1.

You can determine whether Option 1 or Option 2 work best for your needs. The remaining instructions apply to Sample Options 1 and 2.

- Under "THIRD/FOURTH," which begins at the end of page 1 and goes into the top of page 2, you will name the person who will be the executor of your will and what their relationship is to you. If you decide to name a secondary executor, which is recommended but is not required, include their contact information in this paragraph as well. If your primary and secondary executors cannot serve as your executor for whatever reason, you have the option of naming a third person who would be responsible for appointing someone to be your executor.
- If you do not name a secondary executor, please delete the section where you would input the name and contact information for a secondary person. The specific language you would delete is copied below.

**If [Name of Executor] \_\_\_\_\_ stops acting or fails to act as my Executor, I appoint [NAME and RELATION] \_\_\_\_\_.**

- If you do not name a third person who would be responsible for appointing someone to be your executor, please delete the section where you would input the name and contact information for this person. The specific language is copied below.

**If [Name of Executor] \_\_\_\_\_ stops acting or fails to act as my Executor and [Name of Secondary Executor] \_\_\_\_\_ stops acting or fails to act as my Executor, I authorize [Name] \_\_\_\_\_ to appoint a person to act as my Executor. There must be a petition for court approval that is in writing and filed with the court responsible for probate.**

- Under “FIFTH/SIXTH,” which begins in the middle of page 2, you can name someone to act as guardian to your children if you have children who are under the age of 18. You can also name a secondary guardian in case your primary guardian is not available when you pass. The people you name as guardians in this section should be the same people you name in the Standby Guardian document if you are creating one. If you do not have minor children, you can delete this section.
- If paragraph FIFTH/SIXTH does not apply to you, please delete this section. The full section is as follows:

**FIFTH/SIXTH: If, when I die, any of my children are still minors, I appoint [NAME and RELATION] \_\_\_\_\_ as the guardian of the person and the property. [NAME of Guardian] \_\_\_\_\_ will serve without bond. If [NAME of Guardian] \_\_\_\_\_ for any reason cannot serve as guardian or stops serving as guardian, I appoint [NAME and RELATION] \_\_\_\_\_ as successor guardian.**

- You must sign this document in the presence of two witnesses who are above the age of 18. Your witnesses cannot be the people you have given any of your property to. Your executor also cannot be a witness. You and your witnesses must sign your will in each other’s presence and in the presence of a notary, who will fill out page 4 of the attached template.

Generally, it is best to give your executor or another third-party the original copy of your will once it has been signed by all parties and notarized, also known as executed. If you have a secondary executor, you may want to consider giving them a copy as well. You should also keep a copy in a safe and easily accessible place, and you can also provide a copy to a close family member or friend you trust with a copy.

# LIVING WILLS

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## INTRODUCTION

### WHAT IS A LIVING WILL?

A living will is a legal document that protects your end-of-life medical wishes if, in the event that you are too sick to make those decisions yourself. The document only goes into effect if you can't make these decisions and you have an incurable condition where you to decide whether or not you want to use life sustaining equipment, including artificial nutrition, medication, and hydration, to keep you alive. You can decide to include as much or as little information as you want with respect to your end-of-life medical care. *[A living will is not the same as a do-not-resuscitate (DNR) order if you go into cardiac arrest. You can have both but they are two separate documents.]*

### DO I NEED A LIVING WILL?

Yes, we all need a living will regardless of our health, age, or whether we have told loved ones about our end-of-life medical wishes. We all hope for the best in our lives, but sometimes life has other plans. Having a living will is the best way to ensure that you get the medical care you want at the end of your life and to keep your loved ones from having to make hard medical decisions on your behalf.

### WHAT HAPPENS IF I DON'T HAVE A LIVING WILL?

If you don't have a living will, state law will control who makes your medical decisions (this person is called a "surrogate"), including whether or not you receive life-sustaining treatment. State law assigns surrogates based on an order of preference that starts with your spouse or domestic partner (unless you are legally separated), goes through several other legal relationships (like legal marriage and blood relationships), and then eventually, if others are unavailable or decline, can reach a close friend. Healthcare providers will go down the line, which means that a parent cannot make decisions for their adult child if the adult child is married. If no one on the surrogate list is available, the physician can make any type of health care decision without going to court.

## SCENARIO:

Carter was diagnosed with a terminal illness several years ago. Upon his diagnosis, Carter created a living will and gave the original to his brother, Andrew. Carter's illness has been incredibly hard on his wife, Gretta, and he knows that Gretta would do anything possible to keep Carter alive. As much as Carter loves and adores his wife, he does not want to be kept alive artificially. Carter knows that his brother will make sure that his wishes are respected. Carter became extremely ill and had to be hospitalized. Andrew made sure to provide the hospital with Carter's living will. The morning after Carter was admitted, he lost consciousness. Later that day, he began having difficulty breathing. Carter is not expected to recover. Gretta asked Carter's doctor to place her husband on a ventilator to help him breathe. Although Gretta wants



her husband to be placed on a ventilator hoping that he might improve, the doctor cannot ignore Carter's wishes and must abide by the terms of Carter's living will.

## WHAT DO I NEED TO GET STARTED?

Spend some time thinking about what end-of-life treatments are important to you, including:

- Think about whether there are situations in which you might not want to prolong your life — for example, if you are in an ongoing vegetative state.
- Think about whether you would feel differently if there was a slim chance of recovery. Then put together a list of the decisions you made. Your list might include whether you want to receive hydration, nutrition, and medication that will keep you alive if you are terminally ill, suffering from an irreversible condition, or unconscious.
- You might want to consider whether or not you want artificial life support. You might also want to consider whether you want to receive pain medication.
- Your living will can also include whether or not you want to donate your organs and tissues to others after your death.

Two sample Living Will forms along with instructions on how to complete them are below. The first sample contains specific language about end of life care. The second sample is a New York State form which allows you to select what types of treatment you would like to receive for end of life care. Download the fillable PDF of the Living Will form [here](#) and the New York Living Will form [here](#).

**NOTE:** You will need to have these forms translated into your native language before signing to ensure that you fully understand and agree with what you are signing.

## LIVING WILL - SAMPLE FORM 1:

### INSTRUCTIONS RELATING TO MEDICAL TREATMENT AND DEATH -- REFUSAL OF FURTHER CARE

("LIVING WILL")

TO: My Family, My Lawyer, Any Treating Physician and Any Hospital, Nursing Home, Hospice or Other Health Care Facility in Which I Should Become a Patient and Any Individual Who May Become Responsible for My Health, Welfare or Affairs.

I, \_\_\_\_\_, am of sound mind and make this statement as an instruction to be followed if I become permanently unable to participate in decisions regarding my medical care. These instructions reflect my firm and considered commitment to refuse medical treatment under the circumstances described below.

A. Now, while I am fully lucid and competent, I exercise my right to refuse medical and surgical treatment in the event that I become incompetent and my condition becomes as described in the following paragraph. I exercise this right even though this REFUSAL of treatment will result in my death. I do not fear death itself as much as the indignities of deterioration, dependence and hopeless pain.

B. If at any time I become incompetent and my attending physician determines that:

- (1) I am in an irreversible coma or persistent vegetative state; or
- (2) I have been continuously unconscious for a period of one week, and I have suffered severe, irreversible brain damage which will make me permanently incompetent; or
- (3) my condition is terminal, incurable and irreversible and my death is likely to occur relatively soon, then, as of that time,

I refuse all further treatment of me by artificial means and devices, including procedures for nutrition and hydration, and all further therapeutic or emergency care that may prolong the process of dying.

I consent to the placement in my medical records of an order not to resuscitate (as defined in section 2961 of the Public Health Law) at the time of this refusal.

I recognize that my decision may cause me pain, so I direct that all available medication for the relief of pain and for my comfort be given to me, even if it causes me to become unconscious and/or shortens my life.

C. I give my treating physician the power to determine when this REFUSAL takes effect and to honor this REFUSAL with or without the approval, and even over the express objections, of one or more members of my family. I only ask that my physician makes this decision using the best medical judgment.

D. I am exercising my right to refuse medical and surgical procedures, although this decision will speed up my death. I have executed this REFUSAL after careful consideration. I hope that you who care for me will feel morally obligated to follow its instruction. I recognize that this appears to place a heavy responsibility on you, but I make this REFUSAL to relieve you of such responsibility and place it on myself.

IN WITNESS WHEREOF, I sign my name to these INSTRUCTIONS RELATING TO MEDICAL TREATMENT AND DEATH -- REFUSAL OF FURTHER CARE, this \_\_\_\_ day of [Month] \_\_\_\_\_, [Year] \_\_\_\_\_.

\_\_\_\_\_  
Signature

I, whose name is signed below, certify [NAME] \_\_\_\_\_, the above-named individual, signed their name to this document and declared it to be their INSTRUCTIONS RELATING TO MEDICAL TREATMENT AND DEATH -- REFUSAL OF FURTHER CARE while in my presence and while competent and lucid. At [NAME]'s request, I sign my name below while in [NAME]'s \_\_\_\_\_ presence and in the presence of the other attesting witness signed below.

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

## NEW YORK LIVING WILL - SAMPLE FORM 2:

### New York Living Will

Page 1 OF 3

*This is an important legal document. Read it carefully and talk about it with your doctor and family. It directs the medical treatment you are to receive in the event you are unable to participate in your own medical decisions and are terminally ill, in a permanently unconscious condition, or in a minimally conscious condition in which you are permanently unable to make decisions or express your wishes.*

I, \_\_\_\_\_, being of sound mind, make this statement as a directive to be followed if I become unable to make my own health care decisions, as determined by the physician who has primary responsibility for my care. These instructions reflect my firm and settled commitment to decline medical treatment under the circumstances indicated below.

#### Health Care:

If I should be in an incurable or irreversible mental or physical condition with no reasonable expectation of recovery, including but not limited to: (a) a terminal condition; (b) a permanently unconscious condition; or (c) a minimally conscious condition in which I am permanently unable to make decisions or express my wishes, it is my wish that the following directions be followed by my health care provider.

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

**Directions: For each choice below: 1) Cross out any of these that you do want AND 2) write your initials next to any statement with which you agree:**

\_\_\_\_\_ I do not want Cardiopulmonary Resuscitation (CPR), and I want my health care provider to issue a Do Not Resuscitate (DNR) order (an order written in my medical records that CPR is not to be administered to me).

\_\_\_\_\_ I do not want mechanical respiration.

\_\_\_\_\_ I do not want artificial nutrition and/or hydration (provision of foods and fluids through tubes).

\_\_\_\_\_ I do not want antibiotics.

\_\_\_\_\_ I do not want dialysis-cleaning the blood by machine

\_\_\_\_\_ I do not want blood transfusions/blood products

\_\_\_\_\_ I do not want invasive diagnostic tests - flexible tube to look into the stomach

\_\_\_\_\_ I do not want anti-psychotic medication

\_\_\_\_\_ I do not want electric shock therapy

\_\_\_\_\_ I do not want transplantation

\_\_\_\_\_ I do not want abortion / sterilization

\_\_\_\_\_ I do not want a pacemaker (non-cardiac related terminal or irreversible condition)

\_\_\_\_\_ I do not want surgery (you can define what surgery you do not want.)

\_\_\_\_\_ I do not want any other painful or invasive treatment that will result in prolonging my life.

\_\_\_\_\_ I DO want maximum pain relief, even if it may hasten my demise.

**Other Instructions or Comments about My Care:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Signed \_\_\_\_\_ Date \_\_\_\_\_

Address \_\_\_\_\_

**Witnesses:** Two 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 appeared to execute the Living Will willingly and free from duress. He or she signed (or asked another to sign for him or her) this document in my presence.

**Witness 1:**

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

**Witness 2:**

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Tel. No.: \_\_\_\_\_



**Optional: Organ and/or Tissue Donation**

You may state wishes or instructions about organ and/or tissue donation on this form. A health care agent cannot make a decision about organ and/or tissue donation because the agent's authority ends upon your death. The law does provide for certain individuals in order of priority to consent to an organ and/or tissue donation on your behalf: your spouse, a son or daughter 18 years of age or older, either of your parents, a brother or sister 18 years of age or older, a guardian appointed by a court prior to the donor's death, or any other legally authorized person.

I hereby make an anatomical gift, to be effective upon my death, of *(write your initials next to the statement of your choice)*:

\_\_\_\_\_ Any organs and/or tissues

\_\_\_\_\_ The following organs and/or tissues:

\_\_\_\_\_

Limitations:

\_\_\_\_\_

If you do not state your wishes or instructions regarding organ and/or tissue donation on this form, it will not 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.

Signed \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

## INSTRUCTIONS:

### LIVING WILL - SAMPLE 1

- First, write your name in the blank in the first paragraph of page 1. Then, sign and date the document on page 2 in the presence of two witnesses who are above the age of 18. After, your witnesses should sign their names, write in their addresses and date the document on page 3. In the paragraph above where your witnesses sign, one of your witnesses will need to write your name in the blank in the first line of the paragraph and again in the second-to-last line of that paragraph. This is to confirm that this document is for you and that you are mentally able to make these decisions.
- Keep the original of this document with your important papers. Give a copy to your healthcare proxy and to your secondary proxy if you named one. If you can, give a copy to your primary care doctor or the doctor you see most often. We also recommend putting a copy on your refrigerator door, which emergency medical workers are trained to check.

### NEW YORK STATE LIVING WILL - SAMPLE 2

- First, write your name in the blank space on the first line of the second paragraph. Per the directions located on page 1, cross out any of the treatments that you do want to receive which are listed on the bottom half of page 1 into page 2. If you agree that you do not want the treatments listed, please sign your initials next to each statement that you agree with.
- On page 2, please indicate any other instructions you may have regarding your medical care.
- You will then sign, date, and write your address below the section for “Other Instructions or Comments about My Medical Care” in the presence of two witnesses who are above the age of 18. After you have signed, each witness will need to complete the bottom of page 2, where they will print their names and sign their names and fill in their address and phone number.
- Page 3 is optional and should be completed only if you would like to donate organs and or tissues. You can either select donations of any organs and/or tissues, or limit to specific organs and/or tissues. Once you have completed this optional section, you will sign your name, date, and write in your address.

# HEALTHCARE PROXY

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## INTRODUCTION

### WHAT IS A HEALTHCARE PROXY?

A healthcare proxy is a legal document that lets you choose someone as your “agent” to make your medical decisions if you can’t make those decisions for yourself. Unlike a living will, which only covers your end-of-life care, a healthcare proxy covers all stages of life. The person you choose for this role, usually called an “agent” or a “medical power of attorney,” only has as much power as you give them. If you have a healthcare proxy, your medical provider must follow your agent’s decisions as if they were your own decisions. This document only goes into effect after two doctors find that you cannot make medical decisions.

### DO I NEED A HEALTHCARE PROXY?

This document is a good way of ensuring you get the medical treatment you want. It may be especially important to have a healthcare proxy if you have different values than some of your family members.

### WHAT HAPPENS IF YOU DO NOT HAVE A HEALTHCARE PROXY?

Without a proxy, state law governs who can make decisions in certain settings. Under the Family Health Care Decisions Act, if you become mentally incapacitated, health decisions while you are in a hospital or residential care facility can be made by “surrogates.” Surrogates are chosen based on a list that generally considers legal relationships (like legal marriage, your children, parents, and siblings) most important. It’s best not to rely on this list because the surrogate may have very different values than you and may not know your preferences. Additionally, because multiple people can have the same priority and disagree about treatment, relying on the state law can be confusing and messy.

## SCENARIO

Jordan has to undergo a difficult surgery. Though Jordan’s relationship with their parents is strained, Jordan let their parents know about the surgery, and Jordan’s parents will help care for them afterwards. However, Jordan also created a healthcare proxy appointing their best friend and confidant, Taylor, as their agent. Jordan’s proxy is in their hospital chart. The procedure is successful, but Jordan has a long road ahead of them and will not be able to communicate or make decisions on their own for at least a few weeks.

Jordan develops an infection during recovery that can be resolved by either a minor surgery or an antibiotic that will delay recovery for a few more weeks. Before Jordan’s hospitalization, Jordan and Taylor discussed various scenarios, just in case, and additional surgery was one of those scenarios. Jordan also trusts Taylor to make the best possible decisions on their behalf even if the situation was something they had not previously discussed. Taylor has decided that Jordan will have the procedure. Jordan’s parents disagree and have tried to plead with the chief

doctor to allow them to make health decisions for Jordan. However, because Jordan has a healthcare proxy in place, their parents have no authority to make Jordan's medical decisions.

## WHAT DO I NEED TO GET STARTED?

- Spend some time thinking about someone over the age of 18 you can rely on to make medical decisions for you. Make sure you speak to this person before creating your proxy so that they know and agree to take on the role.
- Before creating the proxy, also make sure to discuss your medical preferences, including how you feel about life support, end-of-life care, illness, health, healthcare institutions, and any religious beliefs.
- You may want to name a secondary healthcare agent, who will take on the role if your first agent is unavailable when healthcare decisions need to be made for you.
- If you decide to name a successor agent, have the same conversation with them about your wishes and what the role entails.

Two sample Healthcare Proxy forms along with instructions on how to complete them are below. The first sample is a standard New York Health Care Proxy form. The second sample is a tailored Health Care Proxy to make sure that your gender identity is respected and that no one interferes with your medical care or visits you in the hospital against your wishes. Download the fillable PDF of the New York State Healthcare Proxy form [here](#) and the Tailored Healthcare Proxy form [here](#).

**NOTE:** You will need to have these forms translated into your native language before signing to ensure that you fully understand and agree with what you are signing.

## NEW YORK STATE HEALTHCARE PROXY - SAMPLE FORM 1:

### Health Care Proxy

**(1) I,** \_\_\_\_\_  
hereby appoint \_\_\_\_\_  
(name, home address and telephone number)

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

**(2) Optional: Alternate Agent**

If the person I appoint is unable, unwilling or unavailable to act as my health care agent, I hereby

appoint \_\_\_\_\_  
(name, home address and telephone number)

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

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

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

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



**(5) Your Identification** *(please print)*

Your Name \_\_\_\_\_

Your Signature \_\_\_\_\_ Date \_\_\_\_\_

Your Address \_\_\_\_\_

**(6) Optional: Organ and/or Tissue Donation**

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

☐ Any needed organs and/or tissues

☐ The following organs and/or tissues \_\_\_\_\_

☐ Limitations \_\_\_\_\_

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

Your Signature \_\_\_\_\_ Date \_\_\_\_\_

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

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

Date \_\_\_\_\_ Date \_\_\_\_\_

Name of Witness 1 *(print)* \_\_\_\_\_ Name of Witness 2 *(print)* \_\_\_\_\_

Signature \_\_\_\_\_ Signature \_\_\_\_\_

Address \_\_\_\_\_ Address \_\_\_\_\_

\_\_\_\_\_



## TAILORED HEALTHCARE PROXY - SAMPLE FORM 2:

### HEALTH CARE PROXY

I, [NAME] \_\_\_\_\_, residing at [ADDRESS] \_\_\_\_\_, pursuant to Article 29-C of the Public Health Law of the State of New York, hereby appoint as my health care agent to make any and all health care decisions for me, except to the extent I state otherwise:

NAME  
ADDRESS  
PHONE

(OPTIONAL) or, in the event that the above-listed individual is unable, unwilling or unavailable to act as my health care agent,

NAME  
ADDRESS  
PHONE.

This Health Care Proxy will take effect if my attending physician determines that I am unable to make my own health care decisions.

I intend that my health care agent be my personal representative within the meaning of, and have all of the same rights as I would have under, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 USC 1320d and 45 CFR 160-164.

I direct my agent to make health care decisions (i) in accordance with my wishes and instructions as my agent knows or as stated in any "Living Will" that I have signed or may sign and (ii) in accordance with my best interests if my wishes are not known and cannot be determined with reasonable effort.

I authorize my agent to visit me in the event of my illness and to make decisions about who may visit me. I also authorize my agent to bar individuals from visiting me, if my agent determines that the visits of such individuals would make me unhappy or cause me pain.

I direct my agent to instruct any healthcare provider, medical staff, or other person to address me by my name \_\_\_\_\_ and preferred pronouns of \_\_\_\_\_, and to preserve to the fullest extent possible an appearance consistent with my gender identity.

I authorize my agent to remove me from any hospital to my home or to any other hospital, even if it is to another State.

I understand that, unless I revoke it, this health care proxy will remain in effect indefinitely and will not be affected by my subsequent disability or incompetence.

All terms used herein shall have the same meaning as when used in said Article 29-C of the Public Health Law.

IN WITNESS WHEREOF, I have signed my name here to this HEALTH CARE PROXY, this \_\_\_\_\_ day of [MONTH] \_\_\_\_\_, [YEAR] \_\_\_\_\_.

\_\_\_\_\_  
(L.S.)

I declare, on this \_\_\_\_\_ day  
of [MONTH] \_\_\_\_\_, [YEAR] \_\_\_\_\_,  
that [NAME] \_\_\_\_\_  
is personally known to me and appears  
to be of sound mind and acting  
willingly and free from duress; [NAME] \_\_\_\_\_  
signed this document in my presence  
and I am not the individual  
appointed as agent by this document.

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_\_

## INSTRUCTIONS:

### NEW YORK STATE HEALTH CARE PROXY SAMPLE 1

- To complete this form, fill your name in line (1) and fill in the name of the person whom you have identified as your agent with their contact information directly below. If you have a secondary agent, which is recommended but not required, you can fill that information in (2). If you want this proxy to be temporary, meaning that your agent's power will end on a particular date, you can list that date in (3). But this is not required. If you do not put a date in this section, your agent can make health-related decisions for you indefinitely (if you can't make those decisions on your own). If you want to include additional instructions, such as limiting the type of health care decisions your agent can make or specifying certain health care decisions that you are already sure about, include those instructions in (4) or add a separate page. If you add a separate page, we advise that you sign and date that page and get it notarized. Please include your full contact information in (5). This is required. You can include wishes for tissue/organ donation in (6); this is not required. Lastly, two witnesses must watch you sign this document in (7) and then sign themselves. Your witnesses cannot be the same individual(s) you name as your agents.
- Your agent and secondary agent, should you name one, will each need a copy of your proxy once it has been signed. Keep the original with your important papers and put a copy on your refrigerator door, where emergency medical workers are trained to check. Give your doctor a copy if you can.

### TAILORED HEALTH CARE PROXY SAMPLE 2

- To complete this form, print your name and address on the top of page 1. Immediately below the first paragraph, list the name, address and phone number for the person(s) you want as your agent and secondary agent, if you want one as a backup. On the top of page 2, if you have a chosen name other than the name listed on your birth certificate, please list that here, followed by your preferred gender pronouns. Then date and then sign toward the bottom of page 2 in the section that begins with "IN WITNESS WHEREOF". Immediately below that section, one of your witnesses will need to fill in the day, month, and year and then write your name in the blanks of the third and sixth lines of the section that begins, "I declare, on this \_\_\_\_ day." Two witnesses who are over the age of 18 and not the agent(s) you have listed must watch you sign this document and then sign themselves and fill in the date and their addresses.
- Your agent and secondary agent, should you name one, will each need a copy of your proxy once it has been signed. Keep the original with your important papers and put a copy on your refrigerator door, where emergency medical workers are trained to check. Give your doctor a copy if you can.

# DURABLE POWER OF ATTORNEY:

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## INTRODUCTION:

### WHAT IS A DURABLE POWER OF ATTORNEY?

A durable power of attorney lets you, as the “principal,” appoint someone you trust, the “agent,” to execute documents and handle various financial transactions for you. You can specify what types of decisions the person is authorized to make — for example, taking out a loan in your name, applying for public benefits for you, withdrawing money from your bank accounts, and/or selling your property. You can also specify whether the document goes into effect immediately or after some future event (for example, after a doctor says that you are not able to make legal decisions). We call this document “durable” because the document remains in effect until you either cancel it or pass away. It is **very important** to understand that, unlike the other advanced directives, once you and your named agent execute the durable power of attorney, your agent can make decisions and access your financial accounts without notifying you, even if you have mental capacity and are able to make your own decisions. Creating a durable power of attorney does not keep you from making your own decisions. It just means that your agent can also make decisions based upon the power you give them, as if they were you.

**NOTE:** As of June 13, 2021, New York State has released a new Power of Attorney form. If you created a New York State Power of Attorney form prior to June 13, 2021, your form is still valid and you will not need to make a new one.

### WHAT HAPPENS IF YOU DO NOT HAVE A DURABLE POWER OF ATTORNEY?

If someone without a durable power of attorney becomes incapacitated and cannot manage a financial or legal issue, their family must get permission from the court to make decisions on the person's behalf. If there is no family, the court will choose another person or a nonprofit organization to make those decisions. The person or organization will probably not be anyone you know, and they might not make the same decisions you and your loved ones would.

### SPECIAL DURABLE POWER OF ATTORNEY CONSIDERATIONS:

Because this document gives a lot of power to another person, it is especially important to think about whether creating the document is necessary. If you are unsure about whether you should have a durable power of attorney, or what degree of power you want to give your agent, we recommend that you speak with an attorney. If you are age 60 or older, or if you are HIV positive, and you live in Manhattan, Brooklyn, Queens, or Staten Island, you may be eligible for services or general advice from an attorney. Please feel free to call the Legal Services NYC hotline at 917-661-4500 to be screened in order to determine whether you are eligible for our services.

### SCENARIO:

Andre was recently hospitalized after a motorcycle accident. Andre's longtime partner, Astryd, has been by his side the entire time. Andre is expected to make a full recovery, but due to his

injuries, Andre was placed in a medically induced coma. Unfortunately, Andre's insurance won't cover all of his treatment. Andre has a retirement account through his employer, and Astryd is named as the beneficiary. Astryd is confident that Andre would want her to use money from this account for his medical care. Astryd contacted the retirement account company. Though Astryd has all the necessary information and is named as Andre's beneficiary, the company told Astryd that they can't speak with her about Andre's account or release any money to her without permission from Andre.

Astryd is frustrated because Andre is not conscious and can't do anything for himself right now. Astryd escalates her inquiry to a manager, who explains that without a power of attorney authorizing Astryd to access Andre's funds, she cannot make any withdrawals. The manager also explains that although Astryd is the beneficiary of the retirement account, she can only access those funds if Andre has passed away. Without a power of attorney, Astryd will need to get a court order to access Andre's retirement account.

## WHAT DO I NEED TO GET STARTED?

Spend some time thinking about someone over the age of 18 you can rely on to make the decisions as your power of attorney. Make sure the person you want as your agent is willing and able to take on the role. You can also name a secondary agent who will act for you if, for any reason, your agent cannot fulfill the role.

**IMPORTANT:** Please note that once a Durable Power of Attorney form is completed, signed and notarized it goes into effect immediately and not upon death. This means whomever you designate to be your Power of Attorney can immediately start to access your accounts and finances depending on the power you give them. Be sure to read the instructions in full before completing a Durable Power of Attorney form.

A sample Durable Power of Attorney form along with instructions on how to complete this form is below. Please find a PDF Durable Power of Attorney form [here](#).

**NOTE:** You will need to have these forms translated into your native language before signing to ensure that you fully understand and agree with what you are signing.



## NEW YORK STATE DURABLE POWER OF ATTORNEY FORM SAMPLE:



New York State Bar Association  
New York Statutory Short Form Power of Attorney, Eff. 6/13/21

### POWER OF ATTORNEY NEW YORK STATUTORY SHORT FORM

(a) **CAUTION TO THE PRINCIPAL:** Your Power of Attorney is an important document. As the “principal,” you give the person whom you choose (your “agent”) authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. “Important Information for the Agent” at the end of this document describes your agent’s responsibilities.

Your agent can act on your behalf only after signing the Power of Attorney before a notary public.

You can request information from your agent at any time. If you are revoking a prior Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to any third parties who may have acted upon it, including the financial institutions where your accounts are located.

You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.

Your agent cannot make health care decisions for you. You may execute a “Health Care Proxy” to do this.

The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, [www.nysenate.gov](http://www.nysenate.gov) or [www.nyasassembly.gov](http://www.nyasassembly.gov).

If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.

(b) **DESIGNATION OF AGENT(S):**

I, \_\_\_\_\_

(name of principal)

\_\_\_\_\_ (address of principal)

hereby appoint:

\_\_\_\_\_ (name of agent)

\_\_\_\_\_ (address of agent)

\_\_\_\_\_ (name of second agent)

\_\_\_\_\_ (address of second agent)

as my agent(s).





If you designate more than one agent above and you do not initial the statement below, they must act together.

( ) My agents may act SEPARATELY.

**(c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)**

If any agent designated above is unable or unwilling to serve, I appoint as my successor agent(s):

*(name of successor agent)*

*(address of successor agent)*

*(name of second successor agent),*

*(address of second successor agent)*

If you do not initial the statement below, successor agents designated above must act together.

( ) My successor agents may act SEPARATELY.

You may provide for specific succession rules in this section. Insert specific succession provisions here:

**(d) This POWER OF ATTORNEY shall not be affected by my subsequent incapacity unless I have stated otherwise below, under "Modifications".**

**(e) This POWER OF ATTORNEY DOES NOT REVOKE any Powers of Attorney previously executed by me unless I have stated otherwise below, under "Modifications."**

**(f) GRANT OF AUTHORITY:**

To grant your agent some or all of the authority below, either

- (1) Initial the bracket at each authority you grant, or
- (2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

- ( ) (A) real estate transactions;
- ( ) (B) chattel and goods transactions;
- ( ) (C) bond, share, and commodity transactions;
- ( ) (D) banking transactions;
- ( ) (E) business operating transactions;
- ( ) (F) insurance transactions;
- ( ) (G) estate transactions;



- ☐ (H) claims and litigation;
- ☐ (I) personal and family maintenance: If you grant your agent this authority, it will allow the agent to make gifts that you customarily have made to individuals, including the agent, and charitable organizations. The total amount of all such gifts in any one calendar year cannot exceed five thousand dollars;
- ☐ (J) benefits from governmental programs or civil or military service;
- ☐ (K) financial matters related to health care; records, reports, and statements;
- ☐ (L) retirement benefit transactions;
- ☐ (M) tax matters;
- ☐ (N) all other matters;
- ☐ (O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;
- ☐ (P) EACH of the matters identified by the following letters \_\_\_\_\_.

You need not initial the other lines if you initial line (P).

**(g) CERTAIN GIFT TRANSACTIONS: (OPTIONAL)**

In order to authorize your agent to make gifts in excess of an annual total of \$5,000 for all gifts described in (I) of the grant of authority section of this document (under personal and family maintenance), and/or to make changes to interest in your property, you must expressly grant that authorization in the Modifications section below. If you wish to authorize your agent to make gifts to himself or herself, you must expressly grant such authorization in the Modifications section below. Granting such authority to your agent gives your agent the authority to take actions which could significantly reduce your property and/or change how your property is distributed at your death. Your choice to grant such authority should be discussed with a lawyer.

☐ I grant my agent authority to make gifts in accordance with the terms and conditions of the Modifications that supplement this Statutory Power of Attorney.

**(h) MODIFICATIONS: (OPTIONAL)**

In this section, you may make additional provisions, including, but not limited to, language to limit or supplement authority granted to your agent, language to grant your agent the specific authority to make gifts to himself or herself, and /or language to grant your agent the specific authority to make other gift transactions and/or changes to interests in your property. Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. In this section, you may make additional provisions if you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, and you may define "reasonable compensation."

**(i) DESIGNATION OF MONITOR(S): (OPTIONAL)**

If you wish to appoint monitor(s), initial and fill in the section below:

☐ I wish to designate \_\_\_\_\_, whose address(es) is (are) \_\_\_\_\_, as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.



**(j) COMPENSATION OF AGENT(S):**

Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, and/or you wish to define "reasonable compensation", you may do so above, under "Modifications".

**(k) ACCEPTANCE BY THIRD PARTIES:**

I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

**(l) TERMINATION:**

This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

**(m) SIGNATURE AND ACKNOWLEDGMENT:**

In Witness Whereof I have hereunto signed my name on \_\_\_\_\_, 20\_\_

PRINCIPAL signs here: ==> \_\_\_\_\_

STATE OF NEW YORK     )  
  )  
COUNTY OF \_\_\_\_\_)     ss:

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**(n) SIGNATURE OF WITNESSES:**

By signing as a witness, I acknowledge that the principal signed the Power of Attorney in my presence and in the presence of the other witness, or that the principal acknowledged to me that the principal's signature was affixed by him or her or at his or her direction. I also acknowledge that the principal has stated that this Power of Attorney reflects his or her wishes and that he or she has signed it voluntarily. I am not named herein as an agent or as a permissible recipient of gifts.

\_\_\_\_\_  
*Signature of Witness 1*

\_\_\_\_\_  
*Signature of Witness 2*



\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Print name*

\_\_\_\_\_  
*Print name*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State, Zip Code*

\_\_\_\_\_  
*City, State, Zip Code*

**(o) IMPORTANT INFORMATION FOR THE AGENT:**

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

- (1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;
- (4) keep a record of all transactions conducted for the principal or keep all receipts of payments and transactions conducted for the principal; and
- (5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manners: (Principal's Name) by (Your Signature) as Agent, or (your signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or anyone else or make gifts to yourself or anyone else unless the principal has specifically granted you that authority in the modifications section of this document or a Non-Statutory Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest.

You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

**Liability of agent:** The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.



**(p) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:**

It is not required that the principal and the agent(s) sign at the same time, nor that multiple agents sign at the same time.

I/we, \_\_\_\_\_, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as agent(s) for the principal named therein.

I/we acknowledge my/our legal responsibilities.

In Witness Whereof I have hereunto signed my name on \_\_\_\_\_ 20\_\_

Agent(s) sign(s) here: ==> \_\_\_\_\_

==> \_\_\_\_\_

STATE OF NEW YORK )

) ss:

COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**(q) SUCCESSOR AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:**

It is not required that the principal and the SUCCESSOR agent(s), if any, sign at the same time, nor that multiple SUCCESSOR agents sign at the same time. Furthermore, successor agents can not use this power of attorney unless the agent(s) designated above is/are unable or unwilling to serve.

I/we, \_\_\_\_\_, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as SUCCESSOR agent(s) for the principal named therein.

In Witness Whereof I have hereunto signed my name on \_\_\_\_\_ 20\_\_

Successor Agent(s) sign(s) here: ==> \_\_\_\_\_

==> \_\_\_\_\_



New York State Bar Association  
New York Statutory Short Form Power of Attorney, Eff. 6/13/21

STATE OF NEW YORK     )  
  )     ss:  
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

## INSTRUCTIONS:

Please read the form and these instructions carefully. We recommend that you speak with an attorney if there is anything you do not understand. A durable power of attorney gives a lot of power to the person you name as your agent. You should only name someone as your agent if you trust them with your money, your belongings, your healthcare, your benefits, and major decisions about your life. **NOT EVERYONE NEEDS A POWER OF ATTORNEY.** If you are not sure whether you should do one, we recommend that you consult with an attorney.

- To complete this document, sign your name and write your address above the lines “name of principal” and “address of principal” in part (b) on page 1.
- Immediately below, write the name of the person you want as your agent and their address. You can name more than one person to be your agent. However, only list a second name and address in this section if you want two people to have equal decision-making power. If you give two people equal power, make sure that they can work well together and agree on the decisions they will make for you. If you want to name two people as your agents and let them make decisions for you without talking to each other, then you must write in your initials in the line next to “My agents may act SEPARATELY” right above (c) at the top of page 2. However, you do not have to name two people in this section, and it may be better to name only one person as your agent to avoid any potential conflicts.
- If you decide to name a successor agent, or secondary, agent, their name and address will go in section (c). This successor, or secondary agent, can only act on your behalf if your first agent can’t or won’t act. Again, in this section, you can name two people who will have equal decision-making power. But, as stated above, if you decide to name two people, make sure that they will work well together. If you do not want successor agents to work together and have equal decision-making authority, you must write in your initials in the line next to “My agents may act SEPARATELY” right above (d). Again, to avoid any conflicts or issues, you can just name one person as your successor agent. **NOTE:** If you are not completing section (c) because you do not wish to name a successor agent, you should write in “Intentionally Omitted” within this section in order to make it clear that you did not intend to name a secondary person to step in, in the event that your primary agent is unable or unwilling to serve in this role.
- Section (d) in the middle of page 2 references your ability if your intention is to not create a Durable Power of Attorney and instead terminate your Power of Attorney if you lose mental capacity. If you do not create a separate document covered within section (h) specifically stating this, your Power of Attorney will remain valid even after you may lose mental capacity.
- Section (e) references any previously created Power of Attorney form you may have. Creating a new Power of Attorney will not automatically revoke any existing Power of Attorney form unless you complete a separate document, covered in section (h), expressing your intention to revoke your prior form. If you currently have a Power of Attorney that you would like to revoke so that you can create a new one, further information including a sample form is provided at the end of the instructions for how to complete the Power of Attorney form. **NOTE:** If you intend to have multiple Power of Attorney forms effective at the same time, you should consult with an attorney to make



sure that having more than one document will not create any confusion regarding your wishes.

- In section (f), beginning on the bottom of page 2 and ending at the top of page 3, initial each option that you want your agent(s) to control for you. However, if you would like your agent(s) to have authority over multiple or all of the options listed in this section, you only have to initial next to (P) on page 3, and then write in the letter for each authority listed in the line next to (P). For example, if you initial next to (P) and you would like your agent(s) to have authority over options (A) through (D), write in (A), (B), (C) and (D) in the line provided next to (P). **NOTE:** You will **only** include option (I) if you intend for your agent(s) to make a financial gift on your behalf. This includes a financial gift to your agent(s). There is no requirement that your agent make any financial gifts on your behalf in order to create a Power of Attorney.
- Section (g) on page 3 allows, but does not require, you to create certain gift provisions including a financial gift to your agent(s), or even compensation for their services as your agent(s) if this is your wish. Again, neither gifts nor compensation are required for anyone, including your agent(s) in order for your Power of Attorney to be created. **NOTE:** If you intend to complete this section, you will need to have either initialed next to option (I) in section (f) of this document or have included (I) as an option if you are initialing next to (P) within section (f) of this document. You will need also need to create a separate document covered in section (h) to outline the terms of any gifts you are granting your agent(s) to make on your behalf. It is recommended that you consult with an attorney if you have questions about this section. **ADDITIONAL NOTE:** If you are not completing this section, you should write in “Intentionally Omitted” within this section in order to make it clear that you did not intend to have your agent(s) make any financial gifts on your behalf.
- If you do not want to include any modifications, or additional information for your Power of Attorney such as compensating your agent, revoking a prior Power of Attorney, creating financial gifts you would like your agent(s) to make on your behalf, creating/restricting powers you are giving to your agent, or terminating your Power of Attorney if you lose mental capacity, you should write in “Intentionally Omitted” within section (h) in order to make it clear that you did not intend to include further information for this section. **NOTE:** If you would like to complete this section, it is recommended that you speak with an attorney to discuss suggested language.
- If you want to name someone to monitor what your agent(s) do, please initial under section (i) at the bottom of page 3 and write the name and address of the person you want as the monitor. If you do not want to name a monitor, you should write in “Intentionally Omitted” within this section in order to make it clear that you did not intend to complete this section.
- You will write in the date and sign your name in section (m) in the middle of page 4 in front of a notary. **NOTE:** If you are unable to sign for yourself, you can authorize a third-party to sign on your behalf in front of a notary. Once either you or a third-party dates and signs on your behalf the notary will then notarize the document.
- You will also need to have two witnesses present when you or a third-party are signing, and they will then need to sign and complete section (n) at the bottom of page 4 and top of page 5. **NOTE:** Your witnesses must be over the age of 18 and not the agent(s) you have listed, nor can they be named as a monitor or gift recipient if you choose to

complete those sections of the form. You may have the notary serve as a second witness.

- Your agent(s), and your successor agent(s) will also need to be present. They will need to review section (o) in the middle of page 5 and will need to sign on page 5 in the presence of the notary for this document to be effective. Otherwise, the Power of Attorney will not work, and your agent(s) will not be able to do anything for you. The notary must then sign and notarize.
- You should complete an original for yourself, each agent if you have more than one, including a successor agent, and a monitor should you decide to name a monitor. Each original should be notarized, as above.
- You are welcome to make photocopies, if you wish, and give those to anyone who is not named in this document, but you would like to keep informed of your wishes. Be sure to keep any copies in a safe and easily accessible place.
- **Please Note:** If you provide your agent(s) with access to your bank account(s), check with your bank(s) to see whether they will require their own power of attorney form.
- If you would like to revoke a previously created Power of Attorney, please complete the form below. Download a fillable revocation form [here](#).
- In order to complete this form, you will check the box “Other” and write in the Power of Attorney form name you previously created. You will then print your name next to “I” on the fifth line, again write in the Power of Attorney form name on line six, and then fill in the date that you created your previous Power of Attorney in line seven. You will then write in the name of your previously named agent and successor agent (if applicable) on lines eight and nine. You will date, print, and sign your name in the presence of a notary, and the notary will complete the second page. **NOTE:** Make sure to provide a copy of this document to anyone who has copies of the Power of Attorney you are revoking and keep the original with your personal records.

## NEW YORK POWER OF ATTORNEY REVOCATION:

### NEW YORK POWER OF ATTORNEY REVOCATION

Use of this form is for the power of attorney of:

☐ - Health Care Powers

☐ - Financial Powers

☐ - Other: \_\_\_\_\_

I, \_\_\_\_\_, hereby immediately revoke those portions covering decisions of the document titled \_\_\_\_\_, that I previously executed on the \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_ which appointed \_\_\_\_\_ as my agent and \_\_\_\_\_ as my alternate successor agent. I hereby notify said agent(s) and any other interested persons and institutions that all portions of said document are revoked.

This revocation takes effect immediately. A photocopy has the same effect as an original.

This revocation was signed the \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.

Signature of Principal \_\_\_\_\_

Print Name \_\_\_\_\_

NOTE: Provide copies to anyone who may have copies of the Power of Attorney that is being revoked. Retain the original of this form in your personal papers.



## NOTARY ACKNOWLEDGMENT

[State of New York

County of \_\_\_\_\_]

On this \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me  
\_\_\_\_\_, a notary public, personally appeared  
\_\_\_\_\_, proved on the basis of satisfactory evidence to be the  
person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged  
(he/she/they) executed the same.

\_\_\_\_\_  
Witness my hand and official seal.

Print Name \_\_\_\_\_

My Commission Expires on \_\_\_\_\_

(Seal)



Page 2 of 2

# STANDBY GUARDIANSHIP:

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## INTRODUCTION

### WHAT IS A STANDBY GUARDIANSHIP?

Although not technically an advance directive, a standby guardianship is a document that allows a parent or legal guardian to name a temporary guardian for their children in certain situations. There are many situations where a person may want to designate a standby guardian, including forced separation from your child (for example, immigration detention or arrest), or if the parent loses the ability to make childcare decisions, or the parent can't care for the child because of an illness. A Standby Guardianship takes effect immediately after the situation occurs, but it only lasts for 60 days unless the standby guardian asks the court to make them the child's permanent guardian. Only the court can make someone a permanent guardian, and courts make that decision "in the best interests of the child." A noncustodial parent and other relatives can petition to the court to become a permanent guardian. Standby guardianship forms, however, are useful in showing the parent's wishes and the best interests of the child.

### WHAT HAPPENS IF YOU DO NOT HAVE A STANDBY GUARDIANSHIP?

If there no standby guardianship, the noncustodial parent is notified and becomes guardian. If the noncustodial parent is unavailable, the court chooses a standby guardian (usually someone from the Administration for Children's Services [ACS]). This person will try to find the child's closest family member willing to become the permanent guardian. If a family member is willing and able to become the permanent guardian, usually the child will go live with that person. However, this process can take a long time, and children often go into foster care when there is no standby guardian.

## SCENARIO:

Madison and her former spouse Brian adopted Angelica when she was just a few months old. Madison and Brian divorced when Angelica was 2 years old, and Brian moved overseas. Angelica is now 9 years old. Although Brian is still legally Angelica's parent, Brian has not seen or spoken to her since her fourth birthday. As a single parent, Madison wants to make sure that she has a plan in place for Angelica's care should something happen to her. When Brian left the country, Madison's friend Sophia, who is like a sister to her, stepped in and has helped Madison raise Angelica. Madison wants Sophia to be Angelica's guardian because she feels that Sophia loves Angelica and would be the best person to care for her.

Madison consults with an attorney, who tells her that she can create a standby guardianship document naming Sophia as temporary guardian if something happens to Madison while Angelica is still a minor. Madison's attorney explains that since standby guardianship only lasts 60 days, Sophia would have to file for permanent custody in family court during that time. Madison does not want something temporary and believes that Sophia would be the best guardian for Angelica. Madison's attorney explains that custody of a child cannot be set in

advance and that a court must decide what would be in Angelica's best interest. The attorney also tells Madison that even if Brian did ask for custody, the court would consider various factors in Angelica's best interest. One of those factors is who was named as standby guardian. Though that isn't the only thing the court will use to decide on custody, it is an important factor that the court will consider in its decision.

## WHAT DO I NEED TO GET STARTED?

You should appoint someone over the age of 18 whom you trust to care for your children. Communication is essential: make sure to speak with that person and your children (when age appropriate) about your plans. Note: A person who has been convicted of a felony cannot usually be a standby guardian but they may overcome this by getting a "certificate of rehabilitation" — consult a lawyer if you are encountering this hurdle. Your Standby Guardian should also be a U.S. Citizen or Legal Permanent Resident.

## WHAT YOU NEED TO CREATE A STANDBY GUARDIANSHIP?

To create a standby guardianship, you need to be of sound mind. You can appoint one standby guardian and an alternate. Communication is essential: you should appoint people you trust and speak with them and your children (when age appropriate) about your plans. Note: Anyone convicted of a felony or under the age of 18 cannot be a standby guardian.

A sample standby guardianship form along with instructions on how to complete the form is below. Download a fillable PDF of the Standby Guardianship form [here](#).

**NOTE:** You will need to have these forms translated into your native language before signing to ensure that you fully understand and agree with what you are signing.

## STANDBY GUARDIANSHIP FORM SAMPLE:

### DESIGNATION OF STANDBY GUARDIAN PURSUANT TO SCPA § 1726

I, \_\_\_\_\_, hereby designate (name, address, phone) \_\_\_\_\_  
as standby guardian of the person and/or property of my child[ren]: (name, DOB) \_\_\_\_\_

The standby guardian's authority shall take effect if and when either: (1) my doctor concludes I am mentally incapacitated, and thus unable to care for my child[ren]; or (2) my doctor concludes that I am physically debilitated, and thus unable to care for my child[ren], and I consent in writing, before two witnesses, to the standby guardian's authority taking effect; or (3) upon my death. I also understand that my standby guardian's authority will expire sixty days after it starts, unless my standby guardian has petitioned the court to be appointed as guardian.

In the event the person I designate above is unable or unwilling to act as guardian for my child[ren], I hereby designate (name, address, phone) \_\_\_\_\_, as standby guardian of my child[ren].

I understand that I keep my parental rights even after the start of the standby guardian's authority, and I may revoke the standby guardianship at any time.

Signature: \_\_\_\_\_  
Address: \_\_\_\_\_  
Date: \_\_\_\_\_

I declare that the person who executed this document is personally known to me and appears to be of sound mind and acting of their free will. The person who executed this document signed this document in our presence. I further declare that I am at least eighteen years old and am not the person designated as standby guardian.

Witness Signature: _____	Witness Signature: _____
Print Name: _____	Print Name: _____
Address: _____	Address: _____
Date: _____	Date: _____

ACCEPTANCE AND ASSUMPTION BY STANDBY GUARDIAN: I hereby accept this appointment.

SIGNED this \_\_\_\_ day of \_\_\_\_\_,  
(Month) (Year)



(If a secondary standby guardian has been named that person must sign and date below.)

SIGNED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
(Month) (Year)

\_\_\_\_\_

Sworn to me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
(Day) (Month) (Year)

\_\_\_\_\_  
NOTARY SIGNATURE

\_\_\_\_\_  
\_\_\_\_\_

SAMPLE ONLY

## INSTRUCTIONS:

If you have minor children and you do not have a spouse or co-parent who is actively involved in their care and upbringing, you may want to create this form.

- To create a standby guardianship, fill your name in the first line of page 1, followed by the name, address and phone number of the person you want to name as the standby guardian. Immediately after, write the name(s) and date(s) of birth for your children. If you want to name a secondary, or backup, standby guardian, include that person's information in paragraph 3 of page 1. In paragraph 4 you will sign, write in your address and date. You and the individual(s) named as standby guardian will need to sign this form in the presence of two witnesses. Your witnesses must be above the age of 18 and cannot be the same people named as your standby guardian(s). This document must also be notarized so all persons signing must do so in the presence of a notary.
- Make sure that your standby guardian has the original of this document. If you named a secondary standby guardian, let that person know that this document exists, and that the standby guardian has the original. You can give a copy to the secondary standby guardian and, if you wish, to another close family member or friend you trust. Keep a copy for yourself in a safe and easily accessible place.

# CHECKLIST

Below is a list of what you will need to create a last will and testament, living will, durable power of attorney, healthcare proxy, and standby guardianship.

You can name the same person(s) to be executor, healthcare agent, and agent under a power of attorney so long as the person(s) named agree to take on these roles. You can also update your documents if you change your mind about your executor, proxy, or agent. If you want to change or revoke (take back) any of these documents, you can always do so. If you live in Manhattan, Brooklyn, Queens, or Staten Island and are 60 years of age or older, or are HIV+, please feel free to call the Legal Services NYC hotline at 917-661-4500 to be screened in order to determine whether you are eligible for our services.

Now that you have a better idea of the various types of documents that exist, your next step should be to think about which documents are best for you. It is also important to speak with the family members and close friends you may consider asking to serve in one of the roles discussed above.

For a **Last Will and Testaments** and **Living Wills**, you will need the following:

- Itemized list of your personal possessions you wish to distribute to beneficiaries
- The name, address and phone numbers for each of your beneficiaries
- The name(s), address(es) and phone number(s) for your primary executor (and secondary executor)

For your **Durable Power of Attorney**, you will need the following:

- The name(s) of the person(s) you wish to designate as your agent (and secondary agent). Please note that your agent(s) will also need to sign the durable power of attorney form along with you in the presence of two witnesses and a notary.

For your **Healthcare Proxy**, you will need the following:

- The name(s), address(es) and phone number(s) for your proxy (and secondary proxy).

For **Standby Guardianship**, you will need the following:

- The name(s), address(es) and phone number(s) for the guardian you wish to designate (and secondary guardian).

# RESOURCE LINKS

Below are hyperlinks to the fillable PDF forms. Please download them to your desktop before filling them out to save your work. Again, you will need to have these forms translated into your native language before signing to ensure that you fully understand and agree with what you are signing.

- Last Will and Testament:
  - Last Will and Testament Form 1 [here](#)
  - Last Will and Testament Form 2 [here](#)
- Living Wills:
  - Living Will Form [here](#)
  - New York Living Will Form [here](#)
- Healthcare Proxy:
  - New York State Healthcare Proxy Form [here](#)
  - Tailored Healthcare Proxy Form [here](#)
- Durable Power of Attorney
  - Durable Power of Attorney Form [here](#)
  - Power of Attorney Revocation Form [here](#)
- Standby Guardianship Form [here](#)

# CONTACT LEGAL SERVICES NYC

Again, if you live in Manhattan, Brooklyn, Queens, or Staten Island and are 60 years of age or older, or are HIV+, please feel free to call the Legal Services NYC hotline at 917-661-4500 to be screened in order to determine whether you are eligible for our services.

If you live in the Bronx, do not qualify for free legal services or if you require more complex Advance Directive assistance, please refer to the following resources:

[LawHelpNY.org](http://LawHelpNY.org)

<https://www.citybarjusticecenter.org/projects/planning-and-estates-law-project/>

<https://www.lgbtbarny.org/get-legal-help>

<https://nysba.org/>

