



## New York State Coalition



Compassion and Support  
at the End of Life

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### Legislative Testimony

#### Greater Rochester Area Partnership for the Elderly

February 13, 2009

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Good morning. I appreciate the opportunity to provide testimony at these hearings and regret that a prior commitment precludes my ability to testify in person.

I begin by thanking our legislators for their support of legislation that amended PHL§2977(13) and made the Medical Orders for Life-Sustaining Treatment (MOLST) Program permanent and statewide. MOLST improves the quality of care people receive at the end of life by providing effective communication of patient wishes, documentation of medical orders on a brightly colored pink form and a promise by health care professionals to honor these wishes. Additional legislation is required to assist helpless citizens of New York State who are suffering needlessly.

I will focus my testimony on the **Family Health Care Decisions Act**, a bill the New York State Legislature has failed to pass for the past 16 years and should be introduced shortly by Assemblyman Richard N. Gottfried. This bill is so sensible that most New Yorkers assume the law already exists. Introduced in 1993, the Family Health Care Decisions Act would allow families and guardians to make medical decisions for patients who can no longer decide for themselves.

Health care professionals routinely turn to family members for consent. Under current New York law, no one – **not even a concerned family member** – has the right to make decisions about life-sustaining medical treatment for patients who lack capacity, unless the patient has signed a proxy or left “clear and convincing evidence” of his or her treatment wishes. Unfortunately, many people never sign a proxy or leave “clear and convincing” evidence of their treatment wishes.

Providers are obligated to provide patients with life-sustaining treatment unless they have “clear and convincing evidence”. As a result, some incapacitated patients are denied appropriate treatment, while others are subjected to burdensome, highly invasive treatment that violates their wishes and prolongs their suffering. This often occurs when conflict arises regarding the appropriate course of treatment.

The Family Health Care Decisions Act would allow family members and others who are closest to the patient to act as surrogates and make decisions regarding medical treatment for a loved one in certain limited situations. The legislation includes numerous safeguards to ensure sound medical treatment and that decisions are made consistent with the patient’s wishes and best interests.

Over the past 15 years, forty organizations have provided support for passage of the Family Health Care Decisions Act, including the NYS Task Force on Life and the Law, health care providers, state professional associations, community, religious and patients' right organizations. The bill has been re-introduced this year in both Houses.

In the past month, support has grown to more than 100 organizations statewide as a result of efforts of the New York State National Healthcare Decisions Day Coalition. I am privileged to serve as the New York State liaison for NHDD. The goals for New York State's NHDD 2009 efforts include:

- increase conversations that lead to completion of health care proxies,
- increase awareness of the MOLST Program in the community, and
- ensure that the Family Healthcare Decisions Act is passed in 2009

Information on [National Healthcare Decisions Day](#), the [NHDD New York State Coalition](#) and [NHDD NYS Coalition Collaborators](#) can be viewed on [CompassionAndSupport.org](#). I encourage organizations present to join the efforts of the New York State NHDD Coalition.

Through my professional experience as a geriatrician for the past 30 years, I have seen needless suffering in the eyes of patients and families. Further, I recognize that failure to provide compassion and support at the end-of-life can cause unnecessary suffering and poor quality of life for the patient and leave a negative impact on family and survivors for many years to come.

Please support the Family Health Care Decisions Act and stop the cruel and inhumane suffering that too often results because of failure to enact this legislation. Seniors and all New York State citizens, who lack capacity to make health care decisions and have not executed a Health Proxy or provided "clear and convincing" evidence of their wishes, are counting on your voice and advocacy in Albany.

Finally, especially given the current state of NYS public health law, I encourage everyone present to complete a Health Care Proxy and discuss what is important to you with your family, close friends and providers.

Thank you for your time and attention. I am eager to work with you to further the cause of this critical issue.

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