

Medical Orders for Life-Sustaining Treatment (MOLST) Update

Family Health Care Decisions Act

Governor David Paterson signed the Family Health Care Decisions Act into law today. We thank Governor Paterson, the New York State Assembly and New York State Senate for seeing the need to sign into law the Family Health Care Decisions Act. It was an honor to be present at the signing ceremony and represent the more than 100 collaborating organizations. I extend my personal thanks to each and every one of you for your support and legislative advocacy. Together, we have made a difference in the lives of individuals who have never had a conversation about their personal wishes for future medical care.

Integration of FHCDA into the MOLST forms and Program is underway. Updates will be provided periodically.

Each year, about 75,000 people die in New York without a health care proxy and lacking the capacity to make their own health care decisions. The Family Health Care Decisions Act now enables a patient's family member - including his or her domestic partner - to make health care decisions when the patient is not able to do so.

The bill was originally drafted by the Governor's Task Force on Life and the Law. It was sponsored in the Assembly by Health Committee Chair Richard N. Gottfried and in the Senate by Health Committee Chair Thomas K. Duane.

New York had been one of the few states that prohibited family members from making health care decisions for incapacitated loved ones. No one - not even a concerned family member - had the right to make decisions about medical treatment for patients who lacked capacity, unless the patient had signed a health care proxy or left "clear and convincing evidence" of his or her treatment wishes.

As a result, some incapacitated patients were denied appropriate palliative treatment that improved quality of life and reduced suffering, while others were subjected to burdensome, highly invasive treatment that potentially violated their wishes and prolonged their suffering.

For example, loved ones weren't able to have a patient placed in hospice care (moved from acute care to palliative care).

Many people never complete a health care proxy or leave "clear and convincing evidence" of their wishes for health care treatment. A survey conducted by Excellus BlueCross BlueShield showed that nearly nine of 10 upstate New Yorkers surveyed said it is important to have someone close to them making medical care decisions on their behalf if they were to have an irreversible terminal condition and were unable to communicate or make decisions. Yet, only 42 percent had designated a health care proxy to ensure their wishes are actually carried out.

The Family Health Care Decisions Act (FHCDA), now signed into law, allows 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 law includes numerous safeguards to ensure sound medical treatment and that decisions are made consistent with the patient's wishes and best interests.

Note: The Family Health Care Decisions Act **DOES NOT** eliminate the need for open and honest conversations with loved ones about your wishes and desires for medical care. And it **DOES NOT** eliminate the need to have advance care directives on file with your doctors, your attorney and your family members. Advance care directives are the necessary legal forms to document your health care preferences and legally designate someone to represent you during a medical crisis when you can't speak for yourself. They include a health care proxy, a New York State Living Will and a Medical Order for Life Sustaining Treatment (also known as MOLST). The New York State Assembly and New York State Senate for seeing the need to sign into law the Family Health Care Decisions Act.



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