



ELDER LAW AND ESTATE PLANNING

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Recent Florida transplant asks about the function of health care surrogate, health care proxy

Question: Would you please explain the difference between a health care surrogate and a health care proxy? Florida seems to use these terms differently from the state I lived in before. I have documents from my prior state and I want to be sure they are going to be valid here.

Answer: A health care surrogate is the document in which you name a person to handle your health care decisions should you be unable to make those decisions yourself. You need not be near death or permanently incapacitated to need your surrogate's services. For example, a client of ours recently underwent routine surgery. During the operation, the surgeon discovered a tumor on his kidney. The patient's health care surrogate was contacted and gave the surgeon the go-ahead to remove it. Happily, our client is fine now. (Note: a health care power of attorney is also permitted under Florida law; it effectively gives the decision-maker the same powers as a health care surrogate.)

If you fail to name a health care surrogate (or health care power of attorney), or if your decision-maker cannot serve and there is no back-up named, Florida's Health Care Proxy Statute permits the following people, in descending order of priority, to make your health

The Karp Law Firm, P.A.

Location, phone number:

- Palm Beach Gardens, 561-625-1100
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care decisions:

1. Guardian
2. Spouse
3. Adult child. If there is more than one, a majority of the adult children who are reasonably available for consultation
4. Parent
5. Adult sibling. If more than one, a majority who are reasonably available for consultation
6. Close relative
7. Close friend

It would be advisable for you to see a Florida estate planner/elder law attorney to have your health care documents reviewed, and if necessary, updated. If you have other estate planning documents, have the attorney make sure that they, too, are Florida-compliant.

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.