

# STATE OF NEW YORK

385

2023-2024 Regular Sessions

## IN ASSEMBLY

January 9, 2023

Introduced by M. of A. L. ROSENTHAL, GUNTHER, BRONSON -- Multi-Sponsored  
by -- M. of A. GLICK, LUPARDO, McDONOUGH, THIELE -- read once and  
referred to the Committee on Health

AN ACT to amend the public health law, in relation to witnesses to a  
health care proxy and to amend the penal law, in relation to the crime  
of forgery in the second degree

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

Section 1. Paragraph (a) of subdivision 2 of section 2981 of the  
public health law, as amended by chapter 708 of the laws of 2019, is  
amended to read as follows:

(a) A competent adult may appoint a health care agent by a health care  
proxy, signed and dated by the adult in the presence of [~~two~~] one adult  
[~~witnesses~~] witness who shall also sign the proxy. However, a person who  
resides in a facility operated or licensed by the office of mental  
health or the office for people with developmental disabilities, shall  
sign such proxy in the presence of two adult witnesses who shall also  
sign the proxy. Another person, who shall not be a witness, may sign and  
date the health care proxy for the adult if the adult is unable to do  
so, at the adult's direction and in the adult's presence, and in the  
presence of [~~two-adult~~] the witness or witnesses who shall sign the  
proxy. The witness or witnesses shall state that the principal appeared  
to execute the proxy willingly and free from duress. The person  
appointed as agent shall not act as witness to execution of the health  
care proxy.

§ 2. Subdivision 1 of section 170.10 of the penal law, as amended by  
chapter 949 of the laws of 1984, is amended to read as follows:

1. A deed, will, codicil, contract, assignment, commercial instrument,  
credit card, as that term is defined in subdivision seven of section  
155.00 of this part, health care proxy under article twenty-nine-C of  
the public health law, or other instrument which does or may evidence,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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1 create, transfer, terminate or otherwise affect a legal right, interest,  
2 obligation or status; or  
3 § 3. This act shall take effect on the ninetieth day after it shall  
4 have become a law.