PENULTIMATE WILL

To my family; all physicians, hospitals and other health care providers and any Court or Judge:

After thoughtful consideration, I have decided to forego all life-sustaining treatment if I shall sustain substantial and irreversible loss of mental capacity and

my attending physician is of the opinion that I am unable to eat and drink without medical assistance and it is highly unlikely that I will regain the ability to eat and drink without medical assistance;

OR

my attending physician is of the opinion that I have an incurable or irreversible condition which is likely to cause my death within a relatively short time.

I shall be conclusively presumed to have sustained substantial and irreversible loss of mental capacity upon a determination to such effect by my attending physician or when a court determines that I have sustained such loss, whichever shall first occur.

As used herein the term an incurable or irreversible condition which is likely to cause my death within a relatively short time and is a condition which, without the administration of medical procedures which serve only to prolong the process of dying, will in my attending physician’s opinion, result in my death within a relatively short time and said opinion is to be made by my attending physician without considering the possibilities of extending my life with life-sustaining treatment.

I direct that this decision shall be carried into effect even if I am unable to personally reconfirm or communicate it, without seeking judicial approval or authority. Accordingly, if and when it is so determined that

(1) I have sustained substantial and irreversible loss of mental capacity

and

(2) I am unable to eat or drink without medical assistance and it is highly unlikely that I will regain the capacity to eat and drink without medical assistance or I have an incurable or irreversible condition which is likely to cause my death within a relatively short time,

all life-sustaining treatment (including without limitation administration of nourishment and liquids intravenously or by tubes connected to my digestive tract) shall thereupon be withheld or
withdrawn forthwith, whether or not I am conscious, alert or free from pain, and no cardiopulmonary resuscitation shall thereafter be administered to me if I sustain cardiac or pulmonary arrest. In such circumstances I consent to an order not to resuscitate, as that term is defined in Public Health Law Section 2961, and direct that such an order thereupon be placed in my medical record. I recognize that when life-sustaining treatment is withheld or withdrawn from me, I will surely die of dehydration and malnutrition within days or weeks. All available medication for the relief of pain and for my comfort shall be administered to me after life-sustaining treatment is withheld or withdrawn and I do not intend that this instrument be construed as an exclusive enumeration of the circumstances in which I have decided to forego life-sustaining treatment. To the contrary, it is my express direction that whenever the compassionate practice of good medicine dictates that life-sustaining treatment should not be administered, such treatment shall be withheld or withdrawn from me. I similarly direct that in the event I am able to personally communicate a decision to forego life-sustaining treatment in other circumstances than those described herein, such instructions shall be followed to the same extent as if originally included in this declaration.

This instrument and the instructions herein contained may be revoked by me at any time and in any manner. However, no physician, hospital or other health care provider who withholds or withdraws life-sustaining treatment in reliance upon this Penultimate Will or upon my personally communicated instructions without actual knowledge that I have countermanded these instructions shall have any liability or responsibility to me, my estate or any other person for having withheld or withdrawn such treatment.

I am in full command of my faculties. I make this Penultimate Will declaration in order to furnish clear and convincing proof of the strength and durability of my determination to forego life-sustaining treatment in the circumstances described above. I emphasize my firm and settled conviction that I am entitled to forego such treatment in the exercise of my right to determine the course of my medical treatment. My right to forego such treatment is paramount to any responsibility of any health care provider or the authority of any court or judge to attempt to force unwanted medical care upon me.

I direct that my family, all physicians, hospitals and other health care providers and any Court or Judge honor my decision that my life not be artificially extended by mechanical means and that if there is any doubt as to whether or not life-sustaining treatment is to be administered to
me after I have sustained substantial and irreversible loss of mental capacity such doubt is to be resolved in favor of withholding or withdrawing such treatment.

IN WITNESS WHEREOF, I have hereunder subscribed my name this _____ day of __________________, 20__.


WE, whose names are hereunto subscribed, DO CERTIFY that on the _____ day of ________________, 20___, **, the Testator/Testatrix above named, subscribed his/her name to this Instrument, in our presence and in the presence of each of us, and at the same time, in our presence and hearing, declared the same to be his/her Penultimate Will, and requested us and each of us to sign our names thereto as witnesses to the execution thereof, which we do in the presence of the Testator/Testatrix and of each other, on the day of the date of said Penultimate Will, and write opposite our names our respective places of residence.

________________________________________
residing at ______________________________

________________________________________
residing at ______________________________

________________________________________
residing at ______________________________