

Massachusetts Health Care Proxy

By Attorney Patricia Bloom-McDonald

The Massachusetts Health Care Proxy is a basic and essential legal document that allows you to name someone you know and trust to make health care decisions for you if, for any reason and at any time, you become unable to make or communicate those decisions for yourself. Under the Health Care Proxy Law, *M.G.L. Chapter 201D*, a person must be a competent adult 18 years of age or older before he can appoint a Health Care Agent, and that Agent must also be a competent adult who is at least 18 years of age at the time he or she is appointed.

An Agent will make decisions about your health care only when you are, for some reason, unable to do that yourself. This means that your Agent can act for you if you are temporarily unconscious, in a coma, or have some other condition in which you cannot make or communicate health care decisions. Your Agent cannot act for you until your doctor determines *in writing*, that you lack the ability to make health care decisions for yourself.

Acting under the authority of the Health Care Proxy document, your appointed Agent can make any health care decision for you that you would make if you were able to communicate. If you give your Agent full authority to act for you, he or she can consent to or refuse any medical treatment, including treatment that could keep you alive.

Your Agent will make decisions for you only after talking with your doctor or health care provider, and after fully considering all the options regarding diagnosis, prognosis, and treatment of your illness or condition. If the document is properly constructed and it includes language established in accordance with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), your Agent will have the legal right to obtain any information, including confidential medical information, necessary to make informed decisions for you. Your Agent will make health care decisions for you in accordance with your wishes or according to his/his assessment of your wishes, including your religious or moral beliefs.

It is recommended that you talk with your doctor(s), religious advisor, and other members of your family before giving instructions to your Agent. It is very important that you talk with your Agent and other members of your family, so that they all know what is important to you. If your Agent does not know what your wishes would be in a particular situation, your Agent will need to decide based on what he or she thinks would be in your best interests. If your family does not know what your wishes would be in a particular situation then they may object to a decision made by your Health Care Agent which could not only trigger a Court intervention but also cause a possible delay in your medical treatment.

Your Agent’s decisions will have the same authority as you would have if you were able to communicate, and he or she will be honored over those of any other person, except for a Court Order specifically overriding the Proxy.

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