

APPOINTING A HEALTH CARE AGENT IN MASSACHUSETTS

A CATHOLIC GUIDE

From The Massachusetts Catholic Conference

Under Massachusetts law, you may authorize another person to make health care decisions for you should you lose the ability to decide for yourself. You can appoint this person, referred to as a “health care agent”, by completing a form called a “health care proxy”.

Generally, you will want to choose another person who will make medical decisions consistent with your personal convictions and preferences. As a Catholic, you will also want the health care agent’s decisions to comply with the authentic teaching of the Catholic Church.

This Guide:

- Summarizes the Catholic principles that should apply to medical treatment decision-making;
- Explains the health care proxy procedure; and
- Provides a health care proxy that is suitable for use in Massachusetts and incorporates Catholic teaching.

The Massachusetts Catholic Conference represents the Bishops of the four Roman Catholic dioceses in Massachusetts and serves as the official public policy voice for the Catholic Church in the Commonwealth.

INTRODUCTION

Catholics, together with many people of good will, recognize the sacredness of human life from the first moment of conception to the moment of natural death. Hence, we expect that every ordinary effort will always be made to preserve and improve life.

Modern medical technology has brought many benefits and has helped many persons to live life in a more healthy fashion for longer periods of time. It is important, however, to ensure that medical techniques truly serve the dignity of the human person and do not unnecessarily prolong the natural death to which God calls each person.

In this regard, one must avoid two extremes:

*the euthanasia mentality that wills the death of a person under the guise of
“mercy,” and
a technological mentality that prolongs unnecessarily the life of a dying patient.*

In our day, there are many attempts to legalize euthanasia. We unalterably oppose these efforts because we believe that life is God’s precious gift and must not be subjected to deliberate violence or destruction.

UNDERSTANDING THE LAW

The Massachusetts statute on “Health Care Proxies” (Mass. Gen. L. Chap. 201D) allows competent adults (18 years and older), to appoint someone else, such as a family member or close friend, to make their health care decisions should they become incompetent. The document used to make the appointment is called a “Health Care Proxy”. A person writing a health care proxy is known as the “principal”. The person chosen as the representative is known as the “health care agent”.

YOU..

. . . HAVE THE RIGHT to make your own health care decisions while competent. The health care proxy becomes effective only when you are incapacitated through illness or accident and your physician determines in writing that you are incapable of making health care decisions.

. . . HAVE THE RIGHT to be notified of such a written determination by your physician, provided there is an indication that you can comprehend such notice. Once notified, you have the right to challenge such a determination.

. . . CAN GIVE special instructions about your medical treatment to your agent and can restrict the making of certain treatment decisions. Specific instructions about any treatments/procedures you desire or do not desire under particular conditions can be written in your proxy consent. Prior to making instructions, you are encouraged to consult with your physician, your attorney, your family and your spiritual advisor.

. . . CANNOT, after you have applied to be admitted, or during your admission to a hospital, nursing home, or other health care facility, designate as your agent an operator, administrator or employee of such a facility unless that person is also related to you by blood, marriage or adoption.

. . . MAY REVOKE your health care proxy or the appointment of your agent at any time while competent.

YOUR HEALTH PROVIDERS . . .

. . . ARE NOT required to honor your agent’s decision if it is contrary to your physician’s moral or religious beliefs. In such event, you will be transferred to another physician willing to honor your agent’s decision, or your physician will seek judicial relief from your agent’s health care decision.

A health care facility is not required to honor your agent’s health care decision if it is contrary to the facility’s formally adopted policy based on religious beliefs, provided that the patient is transferred to another equivalent facility reasonably accessible to family members who are willing to honor the agent’s decision. If such a transfer is not possible, the facility will be required to seek judicial guidance.

A specific doctor may not act as your attending physician and your agent at the same time.

Both your health care providers and the health care facility are protected from liability when acting in good faith.

SUMMARY OF CATHOLIC TEACHING

For your guidance, we present the Catholic teaching relevant to personal health care decisions.

1. All human life is sacred, from the first moment of conception to the time of natural death.
2. All human beings, regardless of physical or mental abilities, share an equal human dignity meriting both respect and protection.
3. Catholics are free in accordance with Catholic moral teaching to make health care decisions forgoing the use of extraordinary means that prolong a life in a terminal illness.
4. Suffering is a mystery. The role of medicine is to relieve the suffering of the sick by diligent research and compassionate treatment. Suffering which cannot be alleviated can become redemptive when united with the suffering love of Christ.
5. Persons are obligated to take reasonable care of their own health by preserving and nurturing it with appropriate and ordinary (proportionate) means. But, no one is obligated to use extraordinary (disproportionate) measures to prolong life in this world; that is, measures offering no reasonable hope of benefit or measures involving excessive hardship.
6. Respect for unborn human life requires that life-sustaining treatment be extended to a dying pregnant mother if continued treatment can benefit the child.
7. An agent never can be authorized to deny basic personal services every patient rightfully can expect; such as bed rest, hygiene, and appropriate pain medication. Nutrition and hydration should always be provided when they are capable of sustaining human life, as long as this is of sufficient benefit to outweigh the burdens to the patient.

HEALTH CARE PROXY

I, _____, residing at _____
(name of principal) (street) (city)

Massachusetts, do hereby appoint _____
(name of Health Care Agent) (area code) & telephone
residing at _____ as my **Health Care Agent** with the authority

(street) (city)
to make all health care decisions on my behalf in accordance with the provisions of Chapter 201D of the General Laws of Massachusetts. If my said **Health Care Agent** is unavailable, unwilling, incompetent or otherwise disqualified so to serve as my **Health Care Agent** to make a timely decision regarding medical treatment for me should I become incapacitated, I do hereby appoint _____

(name of alternate agent)
_____ residing at _____
(area code) & telephone (street) (city)

as my **Alternate Health Care Agent**.

This authority becomes effective if my attending physician determines in writing that I lack the capacity to make or to communicate health care decisions myself. My **Health Care Agent** is then to have the same authority to make health care decisions as I would if I had the capacity to make them EXCEPT: (here list the limitations, if any, you wish to place on your **Health Care Agent's** authority) _____

I direct my **Health Care Agent** to make decisions based on my **Health Care Agent's** assessment of my personal wishes, moral values and religious beliefs as stated below or as he/she otherwise knows: (here state your personal wishes or moral religious beliefs.) An example of such moral and religious beliefs is the following: I am a Roman Catholic. It is my wish that my **Health Care Agent** make health care decisions for me which are consistent with the authentic teaching of the Catholic Church and based upon my profound respect for life and my belief in eternal life.

It is my intention that my attending physicians, and the health care institution where I am a patient, provide me with proper medical treatment and care including but not limited to:

1. Appropriate pain-alleviating medicine.
2. Nutrition and hydration when they are capable of sustaining life, as long as this is of sufficient benefit to outweigh the burdens involved to me.
3. Standard comfort care appropriate for any patient suffering from illness, injury or disease.

If my personal wishes are unknown, my Agent is to make decisions based on my Agent's assessment of what is in my best interest. Photocopies of this Health Care Proxy shall have the same force and effect of the original.

(signature of principal)

We, the undersigned witnesses, each declare and affirm that we know the identity of the person who signed this Health Care Proxy, that the person appears to be at least eighteen years of age, of sound mind and under no constraint or undue influence. Neither of us is named the **Health Care Agent** in this document. Both of us witnessed the signature by the person who signed this Health Care Proxy, or witnessed it signed at the person's direction, in our presence of each other this _____ (day) of _____, ____ (year)

Witness One: _____
Name (print) _____
Street _____
City/State _____
Telephone (____) _____

Witness Two: _____
Name (print) _____
Street _____
City/State _____
Telephone (____) _____

COMPLETING A HEALTH CARE PROXY

Massachusetts law allows you to use any form for a proxy, and you do not necessarily need to involve an attorney, as long as the form complies with the following basic requirements.

The proxy must identify you as the principle and the person you selected as your health care agent.

The proxy must state that you intend to authorize your agent to make health care decisions on your behalf, and indicate that this authority will become effective when a doctor determines that you lack the capacity to make health care decisions.

Your proxy must be signed and dated in the presence of two witnesses who must also sign the document. Your appointed agent may not sign as a witness.

The proxy included at the end of this Guide satisfies the basic requirements of Massachusetts law and conforms with Catholic teaching. It provides space for you to write down specific limitations that you may want to place on your agent's decision-making authority, as well as any personal wishes, moral values, and religious beliefs that you may want the agent to take into particular account.

Make and distribute copies of your proxy to your doctor, health care agent, family members, close friends, pastor or anyone else who should be aware of your wishes. Be sure to include on the back of any copies the seven guiding Catholic principles.

More importantly, discuss your wishes with your doctor, agent, family, and trusted friends.

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