

Health Care Proxy and Medical Decision Making

This section contains important information about medical decision making. Please discuss it with your health care team. It includes an Introduction, Overview, Summary of Massachusetts law on Medical Decision Making, Instructions for Proxy and Sample Proxy.

Introduction

Hospitals are required, by federal law, to provide all adult patients with information on:

- (1) Their rights under state law to make decisions in regard to their medical care;
- (2) Their right to make an “advance directive”; and
- (3) The hospital’s policies regarding such rights.

This material has been prepared to provide you with this information. We hope it is helpful to you. Please talk to your physicians, nurses or other providers at the hospital if you have any questions.

Translators are available for assistance in reviewing this information. If you would like more information on translations, and are calling from outside the hospital, please call 617-636-5547. If you are calling from within the hospital, please call 6-5547.

Thinking Ahead

There may come a time when you are seriously injured or become gravely ill, and are unable to make decisions about your own medical care. Your family, friends, and caregivers may have to make decisions on your behalf about the nature and intensity of the medical care you receive, including decisions about whether or not you are kept alive on life-support systems. While advances in medical technology have saved many lives, sometimes these treatments are futile, or sometimes the burdens of the treatment outweigh the benefits. You may have your own views as to what treatment you want if you become unable to make decisions on your own behalf. Your family and others may not be aware of these wishes. Without knowing what you would want, your family and others may find it hard to make decisions for you.

Giving Advance Instructions

You can help ensure that your wishes are followed, and help those who will have to make decisions on your behalf, by taking steps now. In Massachusetts, the law specifically provides for naming someone (for example, someone who is close to you, such as a spouse or close friend) to serve as your “health care agent” and make medical decisions for you if you become unable to make these decisions yourself. A health care agent is appointed by means of a health care proxy. (A proxy form is included.) You can also, if you wish, include in the proxy specific instructions about what medical care you want—or do not want.

However, setting limits on your health care agent’s authority might make it difficult for your agent to act for you in a situation that you have not anticipated. Therefore, rather than including specific instructions in the proxy, you may want to provide your agent with flexible guidelines, either through discussions with your agent or by means of a separate document clearly labeled “Guidelines Only.”



Discussing the Issues

Because it is difficult to anticipate what kind of medical care you might want in the event of a future illness, you are encouraged to discuss the medical issues with your physician before preparing your health care proxy. You are also encouraged to talk to your health care agent about your values and what kind of medical care you might want—or not want—in certain circumstances.

For example, you might want to discuss with your doctor and your health care agent the circumstances under which you would want to be revived if your heart and breathing stop, and when you would want various forms of life-support (such as breathing tubes and machines, and feeding tubes). You should also consider discussing the kind, and intensity, of treatment you would want if you become unconscious and are not expected to recover. Among the forms of treatment that may be offered to you in various circumstances are: respirators, artificial nutrition and hydration, and kidney dialysis.

You might also want to discuss with your physician and agent how important certain things are to you such as:

- (1) Having the ability to communicate with family and friends;
- (2) Having your life prolonged, even if machines are necessary;
- (3) Following the wishes of your family;
- (4) The quality of your life; and
- (5) The cost of your care.

You should know that your physicians, nurses and other caregivers at Tufts Medical Center will always provide comfort care and treatment for pain.

In addition to the information contained in this packet, the hospital has a number of policies that address the manner in which patients' rights are implemented, including the following: Policy on Informed Consent, Do Not Resuscitate Orders, Continuing Care of Patients with a DNR Order, and Refusing Blood Transfusion on the Basis of Personal Belief. Social workers and religious counselors are also available at the hospital to speak with you further about these issues. If you would like further information about these policies, please ask your physician, nurses or other health care providers at the hospital.

Summary of Massachusetts Law on Medical Decision Making

This document summarizes rights you have under Massachusetts law to make decisions about your medical care, including the right to accept or refuse medical or surgical treatment, and to complete a Health Care Proxy.

Your Right to Receive Information and To Make Decisions About Your Medical Care

You have legal rights regarding your medical care. These include:

The right to receive from your doctor all significant medical information that is material to a decision by you about whether to consent to a procedure or treatment your doctor recommends

The right to have that information presented in a reasonable manner

The right, generally, to accept or refuse any procedure or treatment, including life-sustaining treatments.

Simply stated, before you decide to accept any treatment or procedure, you should receive information, including:

- A description of the recommended treatment or procedure, including its risks, benefits, and likely outcome

- A description of reasonable alternative treatments or procedures with their risks, benefits and likely outcomes, including the likely results of not having any treatment

- Any other significant medical information that would be important for you in making your decision.

Health Care Proxy: When You Cannot Speak For Yourself

There may come a time when, because of illness or injury, you are not able to make or communicate your own decisions. In Massachusetts, if you are at least 18 years old and competent, you may complete a Health Care Proxy form, selecting another person (called your Health Care Agent) to make health care decisions for you if you cannot make such decisions yourself. You may put specific limitations or instructions in the proxy.

Your health care agent may act for you only if your doctor determines that you are unable to make or communicate your own health care decisions. Subject to any limits you put in the proxy, your health care agent can make all health care decisions you could make. The agent should make the decision based on his/her understanding of your wishes (or, if your wishes are not known, on his/her assessment of your best interests). The agent's decision, if consistent with any instructions in the proxy, and within the bounds of responsible medical practice, should generally be followed. However, in certain circumstances, a patient can be transferred to another provider, or court proceedings can be brought to resolve questions about the proxy or the agent's decision.

The patient can revoke the proxy at any time, and if the spouse has been appointed agent, the proxy is revoked upon divorce or legal separation. You are not required to complete a Health Care Proxy in order to receive medical care from any health care provider. However, if you have completed a Health Care Proxy, you should give copies to your doctor and health care facility to put into your medical record.

If You Don't Have a Health Care Proxy

If you have not completed a Health Care Proxy, your family may be asked to make decisions based upon what they believe you would want done. If you have no family, or if there is disagreement about what treatment you would want, a court may be asked to appoint a guardian to make those decisions on your behalf.

Even if you have not completed a Health Care Proxy, you can still write down guidelines about how you wish to be treated if you become unable to make your own health care decisions. A document containing such guidelines is sometimes called a "Living Will," and may be legally effective in certain states other than Massachusetts. In Massachusetts, such guidelines may help other people to know of your wishes regarding future medical treatment. However, Massachusetts law provides for use of a Health Care Proxy (see above).

If You Are Under the Age of 18 (Minors)

If you are under the age of 18, your parent or legal guardian usually makes decisions about your medical care. Some minors may legally

make health care decisions on their own.

Other Laws

Massachusetts also has special protective laws about the involuntary use of electroconvulsive therapy (ECT), the administration of antipsychotic medications, and commitment to mental health facilities.

Instructions for Health Care Proxy Form

General

If you decide to fill out this form, you are also encouraged to discuss with your physician and the person you choose to be your health care agent what medical care you want if you become seriously ill and unable to make decisions for yourself.

Once the form has been completed, give one copy to your physician, and one copy to your agent. You may also want to give a copy to your lawyer, or put a copy with your other important papers.

If you have questions, you are encouraged to speak to your physician.

Paragraphs

(1) Print your name and address, and the name, address and telephone number of the person you are choosing to be your health care agent. You may also name a second person as "alternate," in case your agent is not able to serve.

(2) If you want your agent to have full authority to make medical decisions for you, based on the circumstances at the time, check "(b)". If you want to give specific instructions, and/or set limits on your agent's authority, check "(a)" and write out your instructions. If you use the back of the form, you must also date and sign the back and have your signature witnessed on both the front and the back of the form.

(3) Before you sign, be sure there are two adults present (not your agent or alternate) to witness your signing. Have each witness sign and date the form, and print his/her name and address.