

MASSACHUSETTS
Advance Directive
Planning for Important Healthcare Decisions

Caring Connections
1700 Diagonal Road, Suite 625, Alexandria, VA 22314
www.caringinfo.org
800/658-8898

Caring Connections, a program of the National Hospice and Palliative Care Organization (NHPCO), is a national consumer engagement initiative to improve care at the end of life, supported by a grant from The Robert Wood Johnson Foundation.

Caring Connections tracks and monitors all state and federal legislation and significant court cases related to end-of-life care to ensure that our advance directives are up to date.

It's About How You LIVE

It's About How You LIVE is a national community engagement campaign encouraging individuals to make informed decisions about end-of-life care and services. The campaign encourages people to:

- L**earn about options for end-of-life services and care
- I**mplement plans to ensure wishes are honored
- V**oice decisions to family, friends and healthcare providers
- E**ngage in personal or community efforts to improve end-of-life care

Please call the HelpLine at 800/658-8898 to learn more about the LIVE campaign, obtain free resources, or join the effort to improve community, state and national end-of-life care.

If you would like to make a contribution to help support our work, please visit www.nationalhospicefoundation.org/donate. Contributions to national hospice programs can also be made through the Combined Health Charities or the Combined Federal Campaign by choosing #11241.

**Support for this program is provided by a grant from
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Using these materials

BEFORE YOU BEGIN

1. Check to be sure that you have the materials for each state in which you may receive healthcare.
2. These materials include:
 - Instructions for preparing your advance directive.
 - Your state-specific advance directive forms, which are the pages with the gray instruction bar on the left side.

PREPARING TO COMPLETE YOUR ADVANCE DIRECTIVE

3. Read the HIPAA Privacy Rule Summary on page 4.
4. Read all the instructions, on page 7, as it will give you specific information about the requirements in your state.
5. Refer to the Glossary located in Appendix A if any of the terms are unclear.

ACTION STEPS

6. You may want to photocopy these forms before you start so you will have a clean copy if you need to start over.
7. When you begin to fill out the forms, refer to the gray instruction bars - they will guide you through the process.
8. Talk with your family, friends, and physicians about your advance directive. Be sure the person you appoint to make decisions on your behalf understands your wishes.
9. Once the form is completed and signed, photocopy the form and give it to the person you have appointed to make decisions on your behalf, your family, friends, healthcare providers and/or faith leaders so that the form is available in the event of an emergency.

If you have questions or need guidance in preparing your advance directive or about what you should do with it after you have completed it, please refer to the state-specific contacts for Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives, located in Appendix B.

Summary of the HIPAA Privacy Rule

HIPAA is a federal law that gives you rights over your health information and sets rules and limits on who can look at and receive your health information.

Your Rights

You have the right to:

- Ask to see and get a copy of your health records.
- Have corrections added to your health information.
- Receive a notice that tells you how your health information may be used and shared.
- Decide if you want to give your permission before your health information can be used or shared for certain purposes, such as marketing.
- Get a report on when and why your health information was shared for certain purposes.
- If you believe your rights are being denied or your health information isn't being protected, you can:
 - File a complaint with your provider or health insurer, or
 - File a complaint with the U.S. Government.

You also have the right to ask your provider or health insurer questions about your rights. You also can learn more about your rights, including how to file a complaint from the Web site at www.hhs.gov/ocr/hipaa/ or by calling 1-866-627-7748.

Who Must Follow this Law?

- Doctors, nurses, pharmacies, hospitals, clinics, nursing homes, and many other healthcare providers.
- Health insurance companies, HMOs, most employer group health plans.
- Certain government programs that pay for healthcare, such as Medicare and Medicaid.

What Information is Protected?

- Information your doctors, nurses, and other healthcare providers put in your medical record.
- Conversations your doctor has had about your care or treatment with nurses and other healthcare professionals.
- Information about you in your health insurer's computer system.
- Billing information about you from your clinic/healthcare provider.
- Most other health information about you, held by those who must follow this law.

Summary of the HIPAA Privacy Rule (continued)

Providers and health insurers who are required to follow this law must keep your information private by:

- Teaching the people who work for them how your information may and may not be used and shared,
- Taking appropriate and reasonable steps to keep your health information secure.

To make sure that your information is protected in a way that does not interfere with your healthcare, your information can be used and shared:

- For your treatment and care coordination,
- To pay doctors and hospitals for your healthcare,
- With your family, relatives, friends or others you identify who are involved with your healthcare or your healthcare bills, unless you object,
- To protect the public's health, such as reporting when the flu is in your area, or
- To make required reports to the police, such as reporting gunshot wounds.

Your health information cannot be used or shared without your written permission unless this law allows it. For example, without your authorization, your provider generally cannot:

- Give your information to your employer.
- Use or share your information for marketing or advertising purposes, or
- Share private notes about your mental health counseling sessions.

INTRODUCTION TO YOUR MASSACHUSETTS ADVANCE DIRECTIVE

This packet contains two legal documents that protect your right to refuse medical treatment you do not want, or to request treatment you do want, in the event you lose the ability to make decisions yourself. Massachusetts does not have a statute governing the use of living wills, therefore there is no living will for the state of Massachusetts.

1. The **Massachusetts Healthcare Proxy** lets you name someone to make decisions about your medical care—including decisions about life support—if you can no longer speak for yourself. The Healthcare Proxy is especially useful because it appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life.

If you lack decision-making capacity because of mental illness or developmental disability, your doctor must have, or consult with a healthcare professional who has, specialized training or experience in diagnosing or treating mental illness or developmental disabilities. However, if you appointed your doctor as your agent, a different doctor must certify your incapacity.

Note: These documents will be legally binding only if the person completing them is a competent adult (at least eighteen years old).

COMPLETING YOUR MASSACHUSETTS HEALTHCARE PROXY

Whom should I appoint as my healthcare proxy?

Your proxy is the person you appoint to make decisions about your medical care if you become unable to make those decisions yourself. Your proxy may be a family member or a close friend whom you trust to make serious decisions. The person you name as your proxy should clearly understand your wishes and be willing to accept the responsibility of making medical decisions for you. (An proxy may also be called an "attorney-in-fact" or "agent.")

You can appoint a second person as your alternate proxy. The alternate will step in if the first person you name as an proxy is unable, unwilling or unavailable to act for you.

The person you appoint as your proxy cannot be an operator, administrator or employee of a treating health care facility, unless he or she is related to you by blood, marriage or adoption.

How do I make my Massachusetts Healthcare Proxy legal?

The law requires that you sign your document, or direct another to sign it, in the presence of two adult witnesses, who must also sign the document to show that they believe you to be at least eighteen years of age, of sound mind, and under no constraint or undue influence. The person you appoint as your proxy cannot serve as a witness.

Note: You do not need to notarize your Massachusetts Healthcare Proxy.

Should I add personal instructions to my Massachusetts Healthcare Proxy?

One of the strongest reasons for naming a proxy is to have someone who can respond flexibly as your medical situation changes and deal with situations that you did not foresee. If you add instructions to this document, you might unintentionally restrict your agent's power to act in your best interest. Talk with your proxy about your future medical care and describe what you consider to be an acceptable "quality of life."

What if I change my mind?

You may revoke your Healthcare Proxy at any time by:

- notifying your proxy or doctor orally or in writing;
- taking any action, such as tearing up or destroying the document, which indicates your specific intent to revoke your Proxy; or
- executing another Healthcare Proxy.

If you have appointed your spouse as your proxy, and your marriage ends, your Healthcare Proxy is automatically revoked.

INSTRUCTIONS

MASSACHUSETTS HEALTH CARE PROXY – PAGE 1 OF 2

PRINT YOUR NAME

(1) I, _____, hereby appoint
(name)

PRINT THE NAME,
HOME ADDRESS
AND TELEPHONE
NUMBER OF YOUR
PROXY

(name, home address and telephone number of proxy)

as my health care proxy to make any and all health care decisions for me, except to the extent that I state otherwise below.

This Health Care Proxy shall take effect in the event that a determination is made by my attending physician that I lack the capacity to make or to communicate my own health care decisions. My attending physician shall make such determination in writing, and shall include his or her opinion regarding the cause and nature of my incapacity, as well as its extent and probable duration.

(OPTIONAL)
PRINT THE NAME,
HOME ADDRESS
AND TELEPHONE
NUMBER OF YOUR
ALTERNATE PROXY

(2) Name of alternate proxy if the person I appoint above is unable, unwilling or unavailable to act as my health care proxy (optional):

(name, home address and telephone number of alternate proxy)

(3) I direct my proxy to make health care decisions in accord with my wishes and limitations as may be stated below, or as he or she otherwise knows. If my wishes are unknown, I direct my proxy to make health care decisions in accord with what he or she determines to be my best interests.

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MASSACHUSETTS HEALTH CARE PROXY — PAGE 2 OF 2

ADD PERSONAL
INSTRUCTIONS
(IF ANY)

(4) Other directions (optional):

SIGN AND DATE
THE DOCUMENT
AND PRINT
YOUR ADDRESS

(5) Signature: _____ Date: _____

Address: _____

WITNESSING
PROCEDURE

Statement by Witnesses

I declare that the person who signed this document appears to be at least eighteen years of age, of sound mind, and under no constraint or undue influence. He or she signed (or asked another to sign for him or her) this document in my presence. I am not the person appointed as proxy or alternate proxy by this document.

YOUR WITNESSES
MUST SIGN AND
PRINT THEIR
ADDRESSES

Witness 1: _____

Address: _____

Date: _____

Witness 2: _____

Address: _____

Date: _____

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MASSACHUSETTS ORGAN DONATION – PAGE 1 OF 1

DONATION OF
ORGANS
(OPTIONAL)

DONATION OF ORGANS (OPTIONAL)

Under Massachusetts law, you may make a gift of all or part of your body. An individual may revoke an anatomical gift at any time by: (1) Writing signed in the same manner as a document of gift; (2) A statement attached to or imprinted on a donor's motor vehicle operator' license; or (3) Any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

Initial the line next to the statement below that best reflects your wishes. If you do not complete this section, your proxy will have the authority to make a gift of a part of your body pursuant to law unless you give them notice orally or in writing that you do not want a gift made. The donation elections you make below survive your death.

I hereby make this organ and tissue gift, if medically acceptable, to take effect upon my death. The words and marks (or notations) below indicate my desires:

(a) ____ any needed organ or tissue for the purpose of transplantation
(b) ____ only the following organs or tissue for the purpose of transplantation, therapy, medical research or education:

(c) ____ my body for anatomical study if needed.

Limitations or special wishes, if any, list below:

CHECK THE OPTION
THAT REFLECTS
YOUR WISHES

SPECIAL WISHES
(IF ANY)

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You Have Filled Out Your Advance Directive, Now What?

1. Your Massachusetts Healthcare Proxy and Caring Connections Living Will are important legal documents. Keep the original signed documents in a secure but accessible place. Do not put the original documents in a safe deposit box or any other security box that would keep others from having access to them.
2. Give photocopies of the signed originals to your agent and alternate agent, doctor(s), family, close friends, clergy and anyone else who might become involved in your healthcare. If you enter a nursing home or hospital, have photocopies of your documents placed in your medical records.
3. Be sure to talk to your agent and alternate, doctor(s), clergy, family and friends about your wishes concerning medical treatment. Discuss your wishes with them often, particularly if your medical condition changes.
4. If you want to make changes to your documents after they have been signed and witnessed, you must complete new documents.
5. Remember, you can always revoke one or both of your Massachusetts Healthcare Proxy and Caring Connections Living Will.
6. Be aware that your Massachusetts documents will not be effective in the event of a medical emergency. Ambulance personnel are required to provide cardiopulmonary resuscitation (CPR) unless they are given a separate order that states otherwise. These orders, commonly called "non-hospital do-not-resuscitate orders," are designed for people whose poor health gives them little chance of benefiting from CPR. These orders must be signed by your physician and instruct ambulance personnel not to attempt CPR if your heart or breathing should stop.

Currently not all states have laws authorizing non-hospital do-not resuscitate orders. We suggest you speak to your physician for more information. **Caring Connections does not distribute these forms.**

Appendix A

Glossary

Advance directive - A general term that describes two kinds of legal documents, living wills and medical powers of attorney. These documents allow a person to give instructions about future medical care should he or she be unable to participate in medical decisions due to serious illness or incapacity. Each state regulates the use of advance directives differently.

Artificial nutrition and hydration – Artificial nutrition and hydration supplements or replaces ordinary eating and drinking by giving a chemically balanced mix of nutrients and fluids through a tube placed directly into the stomach, the upper intestine or a vein.

Brain death – The irreversible loss of all brain function. Most states legally define death to include brain death.

Capacity - In relation to end-of-life decision-making, a patient has medical decision making capacity if he or she has the ability to understand the medical problem and the risks and benefits of the available treatment options. The patient's ability to understand other unrelated concepts is not relevant. The term is frequently used interchangeably with competency but is not the same. Competency is a legal status imposed by the court.

Cardiopulmonary resuscitation - Cardiopulmonary resuscitation (CPR) is a group of treatments used when someone's heart and/or breathing stops. CPR is used in an attempt to restart the heart and breathing. It may consist only of mouth-to-mouth breathing or it can include pressing on the chest to mimic the heart's function and cause blood to circulate. Electric shock and drugs also are used frequently to stimulate the heart.

Do-Not-Resuscitate (DNR) order - A DNR order is a physician's written order instructing healthcare providers not to attempt cardiopulmonary resuscitation (CPR) in case of cardiac or respiratory arrest. A person with a valid DNR order will not be given CPR under these circumstances. Although the DNR order is written at the request of a person or his or her family, it must be signed by a physician to be valid. A non-hospital DNR order is written for individuals who are at home and do not want to receive CPR.

Emergency Medical Services (EMS): A group of governmental and private agencies that provide emergency care, usually to persons outside of healthcare facilities; EMS personnel generally include paramedics, first responders and other ambulance crew.

Healthcare agent: The person named in an advance directive or as permitted under state law to make healthcare decisions on behalf of a person who is no longer able to make medical decisions.

Hospice - Considered to be the model for quality, compassionate care for people facing a life-limiting illness or injury, hospice and palliative care involve a team-oriented approach to expert medical care, pain management, and emotional and spiritual support expressly tailored to the person's needs and wishes. Support is provided to the persons loved ones as well.

Intubation- Refers to "endotracheal intubation" the insertion of a tube through the mouth or nose into the trachea (windpipe) to create and maintain an open airway to assist breathing.

Life-sustaining treatment - Treatments (medical procedures) that replace or support an essential bodily function (may also be called life support treatments). Life-sustaining treatments include cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and other treatments.

Living will - A type of advance directive in which an individual documents his or her wishes about medical treatment should he or she be at the end of life and unable to communicate. It may also be called a "directive to physicians", "healthcare declaration," or "medical directive."

Mechanical ventilation - Mechanical ventilation is used to support or replace the function of the lungs. A machine called a ventilator (or respirator) forces air into the lungs. The ventilator is attached to a tube inserted in the nose or mouth and down into the windpipe (or trachea).

Medical power of attorney - A document that allows an individual to appoint someone else to make decisions about his or her medical care if he or she is unable to communicate. This type of advance directive may also be called a healthcare proxy, durable power of attorney for healthcare or appointment of a healthcare agent. The person appointed may be called a healthcare agent, surrogate, attorney-in-fact or proxy.

Palliative care - A comprehensive approach to treating serious illness that focuses on the physical, psychological, spiritual, and existential needs of the patient. Its goal is to achieve the best quality of life available to the patient by relieving suffering, and controlling pain and symptoms.

Power of attorney – A legal document allowing one person to act in a legal matter on another's behalf regarding to financial or real estate transactions.

Respiratory arrest: The cessation of breathing - an event in which an individual stops breathing. If breathing is not restored, an individual's heart eventually will stop beating, resulting in cardiac arrest.

Surrogate decision-making - Surrogate decision-making laws allow an individual or group of individuals (usually family members) to make decisions about medical treatments for a patient who has lost decision-making capacity and did not prepare an advance directive. A majority of states have passed statutes that permit surrogate decision making for patients without advance directives.

Ventilator – A ventilator, also known as a respirator, is a machine that pushes air into the lungs through a tube placed in the trachea (breathing tube). Ventilators are used when a person cannot breathe on his or her own or cannot breathe effectively enough to provide adequate oxygen to the cells of the body or rid the body of carbon dioxide.

Withholding or withdrawing treatment - Forgoing life-sustaining measures or discontinuing them after they have been used for a certain period of time.

Appendix B

Legal & End-of-Life Care Resources Pertaining to Healthcare Advance Directives

LEGAL SERVICES

Massachusetts Executive Office of Elder Affairs assists individuals over the age of 60 with moderate to low incomes with legal assistance in their region.

Anyone over the age of 60 can get legal information and advice on most issues, including:

- Living Will and Trusts
 - Advance Directives
 - Power of Attorney
 - Civil issues and more
-
- Must be over 60
 - Free for individuals with low to moderate incomes

For more information call toll free: 1-800-243-4636 or 617-727-7750

OR

Visit their website:

<http://www.mass.gov/?pageID=eldersutilities&L=1&sid=Elders&U=aboutus>

END-OF-LIFE SERVICES

Massachusetts Department of Public Health (MDPH) has information on their website about programs and services available to individuals of all ages in the state of Massachusetts. MDPH offers assistances with some of the following:

- Food Stamps
 - Dentist referrals
 - Housing
 - Healthcare planning
 - Medicaid
 - Welfare
 - Substance abuse and much more
-
- Must be over 60
 - Free for moderate to low income individuals

For more information about service visit their website:

<http://mass.gov/dph/about/dphelp.htm>

OR

Call: 617- 624-6000