
MASSACHUSETTS ADVANCE DIRECTIVES

Advance directives are 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.

A healthcare proxy form 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 document appoints someone to speak for you any time you are unable to make your own medical decisions, not only at the end of life. Your proxy may also be called an “attorney-in-fact” or “agent.”

If you lack decision-making capacity because of mental illness or developmental disability, your doctor must have, or consult with a healthcare professional that 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.

Massachusetts allows you to make an anatomical gift of your organs after your death. An optional organ donation form follows the proxy form in this packet.

Massachusetts does not have a statute governing the use of living wills; therefore there is no living will for the state of Massachusetts. However, the “Personal Wishes” statement included can help you communicate your choices to your proxy.

Advance directives are legally binding only if the person completing it is a competent adult, at least 18 years old.

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.

You can appoint a second person as your alternate proxy. The alternate will step in if the first person you name as a 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 18 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.

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.

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Following the Massachusetts healthcare proxy form is an optional organ donation form that allows you to make an anatomical gift of your organs for transplantation, therapy, medical research or education upon your death. If you do not provide instructions regarding the disposition of your organs after your death, by either making a gift or explicitly refusing to make a gift, your family will have the authority to do so on your behalf. The person you appoint as your healthcare proxy will have the authority to make an anatomical gift on your behalf only if your spouse, adult child, parent, or adult sibling does not do so.

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.

What do I do next?

Your healthcare proxy and organ donation forms 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.

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.

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.

If you want to make changes to your documents after they have been signed and witnessed, you must complete new documents.

Remember, you can always revoke one or both of your healthcare proxy and organ donation declarations.

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, which must be signed by your physician, 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 healthcare provider for more information.

MASSACHUSETTS HEALTHCARE PROXY

I, _____, hereby appoint
(name)

(name, home address and telephone number of proxy)

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

This healthcare 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 healthcare 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)

If the person I appoint above is unable, unwilling or unavailable to act as my healthcare proxy, I hereby appoint:

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

as my alternate proxy.

I direct my proxy to make healthcare 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 healthcare decisions in accord with what he or she determines to be my best interests.

(Optional)

Other directions:

Sign and date below, and print your address

Signature: _____ Date: _____

Address: _____

Statement by Witnesses

I declare that the person who signed this document appears to be at least 18 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.

Witness 1: _____ Date: _____

Address: _____

Witness 2: _____ Date: _____

Address: _____

Optional: MASSACHUSETTS ORGAN DONATION

Under Massachusetts law, you may make a gift of all or part of your body.

Unless a document of the gift has been delivered to a specified donee, the anatomical gift may be revoked by:

- the execution of a signed statement;
- an oral statement made in the presence of two persons;
- during a terminal illness or injury, a statement addressed to an attending physician;
- a signed card or document found on your person or with your effects; or
- by destroying, mutilating, or canceling the document of the gift and all signed copies.

If a document of the gift has been delivered to a specified donee, the donee must receive notice of the revocation.

If you do not complete this section, your spouse, adult children, parents, adult siblings, or healthcare proxy, in that order of priority, 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.

Initial the line next to the statements below that best reflect your wishes:

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:

Upon my death, I wish to donate:

- my body for anatomical study if needed.
- any needed organs, tissues, or eyes.
- only the following organs, tissues, or eyes: _____
- _____

Initial the option that reflects your wishes

I authorize the use of my organs, tissues, or eyes for:

- transplantation.
- therapy.
- research.
- medical education.
- any purpose authorized by law.

Limitations or special wishes, if any (list below): _____

Sign and date below, and print your address

Signature: _____ Date: _____

Address: _____

PERSONAL WISHES STATEMENT

This form is an expression of my wishes and is not legally binding.

I, _____, sign this form for the purpose of offering my healthcare agent guidance so that he or she may make decisions based on an assessment of my personal wishes as well as medical information provided by my physicians. My healthcare agent has authority to make such decisions in accordance with Massachusetts law.

If there is no reasonable expectation for my recovery and, in the opinion of my physician, I will die without life-sustaining treatment that only prolongs the dying process, I ask that my healthcare agent consider the following: (Write your initials next to the lines that express your wishes.)

_____ Treatment should be given to maintain my dignity, keep me comfortable and relieve pain.

_____ If my heart stops, I do not want it to be restarted.

_____ If I stop breathing, I do not want to have a breathing tube put into my throat and be hooked up to a breathing machine.

_____ My physician may withdraw or withhold treatment that only serves to prolong the dying process. Treatment that may be withheld shall include, but not be limited to, the following:

_____ If I cannot drink, I do not want to receive fluids through a needle placed in my vein

_____ If I cannot swallow, I do not want a tube inserted in my nose, mouth or surgically placed to give me food or fluids.

_____ If I have an infection, I do not want antibiotics administered to prolong my life, without hope of cure, unless necessary to keep me comfortable.

_____ If possible, I would like to die at home with hospice care or in a hospice residence.

_____ If I am in a nursing home I would like to die with hospice care.

_____ Unless necessary for my comfort, I would prefer NOT to be hospitalized.

_____ My faith tradition is _____

_____ My spiritual contact person is _____

_____ My faith community is _____

_____ I wish to have spiritual support.

_____ If possible, I wish to be an organ/tissue donor.

_____ Following is additional guidance for my healthcare agent's consideration:

Signature: _____ Date: _____