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A publication of

**LifePath**  
options for independence

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# THE GOOD LIFE

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## Celebrate Residents' Rights Month!



**By Trevor Boeding, MPH, Director, LTC Ombudsman Program/Rides for Health**

October is **Residents' Rights Month**, an annual event designated by Consumer Voice to honor residents living in all long-term care facilities. It is an opportunity to focus on and celebrate the dignity and rights of every individual receiving long-term services and supports.

This year's Residents' Rights Month theme, **Amplify Our Voices**, emphasizes a community of long-term care residents coming together to make their voices heard. Amplifying your voice means being outspoken about your preferences and choices, and sharing who you are and your experiences. Residents' voices are the most important at the decision-making table—your story deserves to be told!

### *A Health Care Proxy: An Opportunity to Amplify Your Voice*

A long-term care resident, upon admission or any time during their stay, may experience an illness, injury, or other disability that makes them unable to understand the medical decisions they are faced with and/or unable to convey their wishes themselves. This could be the result of a serious medical condition, a coma, dementia, or any other circumstance that makes the resident incapable of making informed choices about their medical care.

A Health Care Proxy, a legal tool governed by Massachusetts General Law, is one way that a resident can amplify their voice and make sure that their wishes are heard, should they ever lack the capacity to make their wishes known themselves. We are lucky in Massachusetts that the law recognizes the significance of patient autonomy and the right to make informed choices about medical treatment.

### *What is a Health Care Proxy?*

A Health Care Proxy is a legal document that allows an individual (the "principal") to designate another person (the "agent") to make healthcare decisions on their behalf if they become unable to do so due to incapacitation or inability to communicate. It is important to note that the healthcare agent's authority is limited. It provides a legal framework for someone trusted by the principal to step in and make healthcare choices that align with the principal's values

and preferences.

It is essential that the principal discuss medical treatment preferences with their agent and loved ones to help ensure that everyone is on the same page. It is important that both the principal and their agent understand their rights and responsibilities. When called upon, the agent should strive to make choices that the principal would have made if they were capable of doing so. In the absence of specific instructions, the agent may make decisions based on what the agent believes to be in the principal's best interests.

Health Care Proxies often work in conjunction with Advance Directives, such as Living Wills and Medical Power of Attorney, to provide comprehensive guidance for healthcare decisions, including end-of-life decisions.

### *Limitations of a Health Care Proxy*

The authority of the Health Care Proxy agent is limited to medical decisions only. These decisions can include treatment options, surgery, medication, and end-of-life care choices.

The agent has no authority to make non-medical choices or decisions. The principal retains the right to make non-medical decisions. The agent is not authorized to decide how the principal spends their money, who may visit them, whether or not they may leave the facility for an outing, or any other non-medical decision. Long-term care facilities, hospitals, and other medical

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venues may not overextend the authority of an agent to include non-medical decisions.

The health care agent's authority remains in effect only as long as the principal is incapacitated. If the principal regains the capacity to make their healthcare decisions, their authority is restored, and the agent's role ends.

### *What Does It Mean When a Health Care Proxy is Invoked?*

When a health care proxy has been invoked in Massachusetts, it means that the person designated as the health care agent is now authorized to make healthcare decisions on behalf of the principal. Usually, the attending

physician or qualified healthcare professional will evaluate the principal and assess whether the principal can understand the risks and benefits of specific medical treatments and whether they can communicate their wishes. The determination of incapacity and invocation of the health care proxy must be documented in the principal's medical record, and it should confirm that the principal is unable to understand and appreciate the nature and consequences of healthcare decisions, including treatment options.

### *Can I Revoke A Health Care Proxy?*

The principal, even if their health care proxy has been invoked, may revoke the authority of their agent, and choose to appoint a new agent or not. The principal can revoke a health care proxy by communicating their intent to do so. This communication can be in any clear and consistent manner, including verbally, in writing, or through other means that clearly indicate their desire to revoke the proxy. It is recommended that the principal communicate any revocation of a health care proxy in writing to their healthcare provider and other relevant individuals involved in their care. It is also recommended to have witnesses present when making an oral revocation. Should the agent or facility refuse to recognize the revocation, they may petition to have the appointment ratified in a court of law. The agent or the facility then bears the burden of proving that the principal lacks capacity to make their own health care decisions.

### *For More Information about Health Care Proxy Law in Massachusetts & To Access the Massachusetts Health Care Proxy Form*

It is best not to wait until an emergency happens to execute a Health Care Proxy. The form was designed to be easy to complete; legal assistance is not required. To learn more about the MA Health Care Proxy Law and download the MA Health Care Proxy form, please go to: <https://www.mass.gov/info-details/massachusetts-law-about-health-care-proxies-and-living-wills#forms->.

### *The LTC Ombudsman Program Can Help You Amplify Your Voice!*

The LTC Ombudsman program is happy to assist long-term care residents in understanding Massachusetts Health Care Proxy Law and helping them to advocate for their rights under the law. Please contact Trevor Boeding at 413-829-9234 for more information.

## Ready to make a difference?

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- \*Only a few hours a week



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