

HOUSE No. 1398

The Commonwealth of Massachusetts

PRESENTED BY:

Donald R. Berthiaume, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to healthcare proxies.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>	<i>1/20/2023</i>

HOUSE No. 1398

By Representative Berthiaume of Spencer, a petition (accompanied by bill, House, No. 1398) of Donald R. Berthiaume, Jr., relative to healthcare proxies. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to healthcare proxies.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of Chapter 201D of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by adding after the second paragraph the following:-

3 “In the event that a previously designated healthcare agent, healthcare proxy, or alternate
4 is not available, willing, or competent to make decisions, the attending physician may designate
5 another willing physician to make health care treatment decisions as a patient's proxy decision-
6 maker if:

7 (A) The attending physician has a made a reasonable effort to contact the patient’s proxy
8 decision-maker;

9 (B) The attending physician has obtained an independent determination of the patient's
10 lack of decisional capacity by another physician; by an advanced practice nurse who has
11 collaborated about the patient with a licensed physician either in person, by telephone, or
12 electronically; or by a court;

13 (C) The attending physician or his or her designee has consulted with and obtained a
14 consensus on the proxy designation with the medical ethics committee of the health care facility
15 where the patient is receiving care; and

16 (D) The identity of the physician designated as proxy decision-maker is documented in
17 the medical record.

18 Nothing in this section should be construed as authorizing physician assisted suicide.”