

HOUSE No. 4099

The Commonwealth of Massachusetts

PRESENTED BY:

Marjorie C. Decker

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 videotaping, audiotaping and photographing persons receiving medical treatment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>7/29/2015</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>8/5/2015</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>	<i>8/5/2015</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>8/5/2015</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>8/5/2015</i>

HOUSE No. 4099

By Ms. Decker of Cambridge, a petition (subject to Joint Rule 12) of Marjorie C. Decker and others relative to recording persons receiving medical attention. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to videotaping, audiotaping and photographing persons receiving medical treatment.

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 70E of chapter 111 of the General Laws, as appearing in the 2012 Official
2 Edition, is hereby amended by inserting after the ninth paragraph the following paragraph:-

3 No patient shall be the subject of a recording, except for purposes of providing medical
4 treatment, unless the patient, an authorized representative of a patient who is an incapacitated
5 person or a parent or guardian of a patient who is a minor, consents to the recording; provided,
6 however, that such consent may be revoked at any time prior to recording. No person who
7 produces a recording of a patient who died while receiving treatment or any person who acquires
8 the recording thereafter shall expose the recording to the public without first notifying and
9 receiving consent from the patient’s next of kin. For purposes of this paragraph, “authorized
10 representative”, shall mean: (i) an agent to whom authority to make health care decisions on
11 behalf of a person is delegated under a health care proxy in accordance with the requirements of
12 chapter 201D; or (ii) a guardian appointed pursuant to part 3 of article V of the Massachusetts

13 Uniform Probate Code to act on behalf of a person who is incapacitated; provided, however, a
14 guardian appointed pursuant to said part 3 of said article V shall not be considered an authorized
15 representative if an agent has been granted authority to make health care decisions on behalf of
16 the incapacitated person under a valid health care proxy. For purposes of this paragraph,
17 “incapacitated person” shall mean an adult who has a clinically diagnosed condition that results
18 in an inability to receive and evaluate information or make or communicate decisions to such an
19 extent that the individual lacks the ability to meet essential requirements for physical health,
20 safety or self-care, even with appropriate technological assistance. For purposes of this
21 paragraph, “recording” shall mean a videotape, audiotape, photograph, image, film or other
22 digital recording made by a video recorder, audio recorder, camera, computer, telephone or any
23 other device capable of electronic data storage.