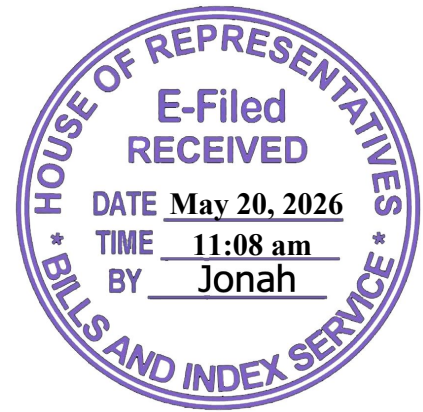


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 9350



Introduced by **Representative BELLA VANESSA B. SUANSING**

EXPLANATORY NOTE

AN ACT RECOGNIZING THE RIGHT OF PATIENTS TO DESIGNATE A HEALTHCARE AGENT THROUGH A HEALTHCARE PROXY, PROMOTING ADVANCE CARE PLANNING, AND PROVIDING FOR SUPPORTED HEALTHCARE DECISION-MAKING IN THE HEALTHCARE SYSTEM

The protection of human dignity in the medical setting is now widely understood to extend beyond the provision of competent care to the preservation of the patient's voice across the threshold of incapacity. The 1987 Constitution affirms this understanding in successive provisions: Article II, Section 11, in which the State accords paramount value to the dignity of every human person and guarantees full respect for human rights; and Article XIII, Section 11, which directs the State to adopt an integrated and comprehensive approach to health development that gives priority to the underprivileged, the sick, the elderly, persons with disabilities, women, and children. These provisions are not merely programmatic. They presuppose a legal architecture under which the patient's prior expression of will continues to operate at the moment its operation is most consequential, that is, when the patient is no longer in a position to articulate it.

The international instruments to which the Philippines is a party are to the same effect. Article 12 of the International Covenant on Economic, Social and Cultural Rights, Articles 3 and 25 of the Universal Declaration of Human Rights, and the United Nations Principles for Older Persons, taken together, locate the State's obligation in the removal of legal and structural barriers that prevent individuals from exercising meaningful agency over the care they receive. The substantive concern is not the availability of treatment in the abstract but the conditions under which the individual's autonomy survives the contingencies of clinical practice.

Measured against these commitments, the framework presently in force discloses a structural inadequacy. Article 199, in relation to Article 194, of Executive Order No. 209, series of 1987, otherwise known as the Family Code of the Philippines, establishes a fixed hierarchy of relatives, namely, the legally married spouse, descendants in the nearest degree, ascendants in the nearest degree, and brothers and sisters, in that order, which has in practice become the operative framework applied in healthcare settings to determine who may consent to medical procedures and make decisions on behalf of an incapacitated patient. The hierarchy was, at the time of its adoption, broadly consonant with the prevailing configuration of the Filipino household. It rests, however, on an empirical premise that is no longer sustainable: that legal proximity and practical proximity describe the same constellation of persons. Where the two diverge, and they now diverge as a matter of course, the regime substitutes the determinations of a legally recognized but practically absent relative for the considered judgements of those most familiar with, and most trusted by, the patient. The displacement is not incidental to the regime. It is its predictable operation.

The empirical record sustains this assessment. As of 2020, more than fifty-seven per cent of children in the Philippines were born to unmarried parents¹, and approximately fifteen per cent of the population subsists in common-law partnerships², proportions that do not capture the full range of contemporary domestic arrangements. The World Health Organization, in its 2024 country profile, identifies fifteen million solo parents in the Philippines, ninety-five per cent of whom are women.³ The Social Weather Stations Survey of 2023 reports that seven per cent of Filipino families have at least one member engaged in overseas employment⁴, with the attendant consequence that geographically separated households are routinely unable to discharge the decision-making functions the law presupposes in them. Successive studies of the Philippine Institute for Development Studies further establish that extended and multi-generational households have grown from twenty-five per cent of the total in 1990 to twenty-nine per cent in 2020.⁵

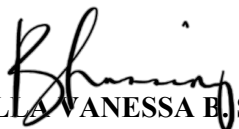
The aggregate picture is one in which care and companionship within Filipino households are increasingly distributed among persons whose relationships the Family Code's hierarchy does not, and cannot, recognize.

The consequences are most acute in emergencies involving incapacitated patients. The person most familiar with the patient's condition, most present in their daily life, and most trusted to act in their interest may have no legal standing, while a legally recognized but practically absent relative may be vested with full decision-making authority by default. The costs of this configuration are borne, in the first instance, by patients themselves, in the form of delays to treatment, conflicts among parties, and outcomes that do not reflect their actual wishes; and, in the second instance, by healthcare providers, who are compelled to adjudicate competing claims in the absence of a clear legal framework. Neither cost can be characterized as incidental. Both are the systematic outputs of a regime that privileges legal form over the substantive autonomy of the patient.

The need for a national legislative response is further evidenced by the action that local governments have already taken within the limits of their own jurisdictions. Quezon City, San Juan City, Iloilo City, and Dasmariñas have each enacted Right to Care ordinances, Parañaque City has endorsed a comparable measure now awaiting local executive approval, and the Province of Cavite has enacted the first province-wide Right to Care ordinance in the country. That cities across Luzon and the Visayas have moved independently to address a gap in national law, and that registration under these ordinances has elicited measurable public response, is itself evidence that the demand for the protection contemplated by this bill is neither speculative nor confined to a particular locality. It is established, widespread, and unresponsive to further deferral.

The bill responds to this configuration not by displacing the Family Code but by supplementing it: by recognizing the right of patients to designate a healthcare agent through a healthcare proxy; by providing for advance care planning as ordinary medical practice rather than as a measure of last resort; and by establishing supported healthcare decision-making within the healthcare system. The intervention is, on its face, a modest one. What it asks the law to recognize is not a new right but the practical exercise of a right the Constitution has long since guaranteed.

In view of the foregoing, the approval of this bill is earnestly sought.


BELLA VANESSA B. SUANSING
Second District, Sultan Kudarat

¹ <https://www.bworldonline.com/opinion/2022/11/17/487884/a-nation-of-illegitimate-children/>

² <https://newsinfo.inquirer.net/1731329/psa-number-of-common-law-partners-in-ph-rose-to-12-66-million-in-2020/amp>

³ <https://opinion.inquirer.net/171008/plight-of-single-parent-families>

⁴ <https://newsinfo.inquirer.net/1758590/sws-survey-says-7-of-filipino-households-have-an-ofw>

⁵ <https://pidswebs.pids.gov.ph/CDN/document/pidsdps2426.pdf>

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TWENTIETH CONGRESS
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HOUSE BILL NO. **9350**

Introduced by **Representative BELLA VANESSA B. SUANSING**

**AN ACT RECOGNIZING THE RIGHT OF PATIENTS
TO DESIGNATE A HEALTHCARE AGENT THROUGH A HEALTHCARE PROXY,
PROMOTING ADVANCE CARE PLANNING, AND PROVIDING FOR SUPPORTED
HEALTHCARE DECISION-MAKING IN THE HEALTHCARE SYSTEM**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This Act shall be known as the “Right to Care Act”.

SECTION 2. *Declaration of Policy.* – The State recognizes health as a fundamental human right and affirms the dignity, autonomy, and well-being of every person in the delivery of healthcare services. Consistent with the constitutional policies of promoting social justice, valuing the dignity of every human person, guaranteeing full respect for human rights, and protecting and promoting the right to health of the people, the State shall ensure that healthcare laws and policies remain responsive to the diverse circumstances and realities under which Filipinos live, particularly in situations involving medical vulnerability and incapacity.

Pursuant to Article II, Section 15, and Article XIII, Section 11 of the Constitution, the State shall adopt an integrated and comprehensive approach to health development and shall endeavor to remove legal and structural barriers that prevent individuals from exercising meaningful agency over decisions concerning their own healthcare.

Towards this end, the State shall:

- (a) Adopt a rights-based approach to healthcare, recognizing the right of every person to participate in decisions affecting the person’s health and medical care;
- (b) Promote advance care planning by enabling individuals to designate a Healthcare Agent through a Healthcare Proxy;

- (c) Strengthen universal access to healthcare services, consistent with the Universal Health Care Act and the country's commitments to the Sustainable Development Goals; and
- (d) Promote supported decision-making that respects the rights, will, and preferences of individuals.

The recognition of Healthcare Agents and Healthcare Proxies shall be implemented in an inclusive, non-discriminatory, and person-centered manner within the healthcare system.

SECTION 3. *Definition of Terms.* – *For the purposes of this Act:*

- (a) *Advance Directive* refers to a written or recorded instruction indicating a person's preferences concerning the provision, withholding, or withdrawal of Healthcare under specified conditions;
- (b) *Healthcare* refers to any care, treatment, service, or procedure undertaken to maintain, diagnose, monitor, or otherwise affect a person's physical or mental condition;
- (c) *Healthcare Agent* refers to a natural person at least eighteen (18) years of age designated by a Principal through a Healthcare Proxy to make Healthcare Decisions on the Principal's behalf;
- (d) *Healthcare Decision* refers to any decision to consent to, refuse, or withdraw consent to the provision of Healthcare on behalf of the Principal;
- (e) *Healthcare Provider* refers to any individual, facility, or institution licensed, accredited, or otherwise authorized by law to provide Healthcare;
- (f) *Healthcare Proxy* refers to a public instrument executed by a Principal designating a Healthcare Agent to make Healthcare Decisions on the Principal's behalf;
- (g) *Incapacity* refers to a temporary or permanent loss of decision-making capacity characterized by the inability of a person to understand information concerning the person's health condition; understand the consequences of decisions or actions on the person's life or health or on the life or health of others; understand information about the nature of a proposed treatment, including its methodology, effects, and possible side effects; or communicate consent to treatment or hospitalization or information regarding the person's own condition or as determined by the healthcare provider;

- (h) *Next of Kin* refers to the closest living relative of the Principal in the following order of priority, namely, spouse, adult child, parent, adult sibling, grandparent, or other relative as determined under applicable laws;
- (i) *Principal* refers to a natural person who designates a Healthcare Agent through a Healthcare Proxy;
- (j) *Supported Healthcare Decision-Making* refers to assistance provided by persons chosen by an individual to help the individual understand, make, or communicate decisions while respecting the individual's rights, will, and preferences.

SECTION 4. *Right to Designate a Healthcare Agent.* – Every person may designate a Healthcare Agent through a Healthcare Proxy to make Healthcare Decisions on the person's behalf in the event of incapacity.

The designation of Healthcare Agent shall be valid if it is freely and voluntarily made by the Principal; executed without fraud, coercion, undue influence or misrepresentation; based on the Principal's freedom of choice; and, reduced into a Healthcare Proxy: *Provided*, that the Principal may modify, replace, or revoke the Healthcare Proxy at any time and such designation shall not constitute a waiver of the Principal's right to make Healthcare Decisions whenever capable of doing so.

In the absence of a Healthcare Proxy, Healthcare Decisions may be made by the Next of Kin and such authority shall only apply when no Healthcare Agent has been designated or when the designated Healthcare Agent is unable, unwilling, or legally or physically unable to act.

SECTION 5. *Healthcare Proxy Form and Acceptance.* – A Healthcare Proxy may be executed as a public instrument at any given time and shall indicate the following:

- (a) name of the Principal and the Healthcare Agent;
- (b) the authority of the Healthcare Agent to make Healthcare Decisions; and
- (c) acceptance by the Healthcare Agent; *Provided*, that the acceptance may be indicated in the Healthcare Proxy or made at the point of care when the Healthcare Agent is called upon to act.

SECTION 6. *Authority and Standards of the Healthcare Agent.* – Subject to any limitations expressly provided in the Healthcare Proxy or in any Advance Directive executed by the Principal, the

Healthcare Agent shall have the authority to make Healthcare Decisions on behalf of the Principal within healthcare settings, including but not limited to:

- (a) providing or giving consent to bedside and nursing care services;
- (b) giving consent to perform or administer emergency medical care and management;
- (c) giving consent to perform diagnostic and/or therapeutic procedures;
- (d) giving consent to connect the Principal to lifesaving devices, including but not limited to a ventilator;
- (e) giving consent to declare Do Not Resuscitate (DNR); and
- (f) giving consent to intubate.

The Healthcare Agent shall have the right to receive relevant medical information and records necessary to make informed Healthcare Decisions. Disclosure of such information shall be deemed authorized for purposes of this Act.

Healthcare Decisions made by the Healthcare Agent shall be exercised while physically present, and shall be made in accordance with the known wishes, will, and preferences of the Principal or, in the absence thereof, in the best interests of the Principal.

In the event of the death of the Principal, the Healthcare Agent may likewise make the necessary arrangements for the funeral and burial of the Principal.

Healthcare Decisions made by a duly designated Healthcare Agent shall have priority over decisions made by any other person, including members of the Principal's family, except where the Principal has expressly stated a contrary wish. In cases of disagreement among family members or other persons, the decision of the Healthcare Agent shall prevail.

A Healthcare Agent shall be free from liability for Healthcare Decisions made in good faith and in accordance with this Act, unless such decisions are attended by gross negligence, willful misconduct, abuse of authority, or bad faith.

Where neither the Healthcare Agent nor the Next of Kin is available, or is unable, unwilling, or legally or physically unable to act, the Healthcare Provider may determine the appropriate course of action in accordance with applicable laws, clinical practice guidelines, and institutional protocols.

Nothing in this Act shall prevent a Healthcare Provider from seeking ethical consultation, mediation, or judicial relief in cases involving substantial uncertainty, conflict, or allegations of abuse or bad faith in the exercise of authority by the Healthcare Agent.

SECTION 7. *Commencement and Termination of Authority.* – The authority of the Healthcare Agent shall commence upon a determination of incapacity by a Healthcare Provider and shall cease once the Principal regains decision-making capacity or upon the revocation of the healthcare proxy.

The Principal may revoke the Healthcare Proxy by notifying a Healthcare Provider, whether orally or in writing; by executing a subsequent Healthcare Proxy; or by any unequivocal act manifesting the intent to revoke the designation.

SECTION 8. *Obligations of Healthcare Providers.* – Health Care Providers are required to observe the following:

- (a) A Health Care Provider who is presented with a Right to Care Card or Health Care Proxy, or who finds such card or proxy on the person of the Principal-Patient, or in the PhilHealth Identification Card of the Principal-Patient, shall recognize and be charged with due knowledge that a Health Care Proxy has been executed by the Principal-Patient.

In the event that the Principal-Patient is unaccompanied by the Health Care Agent designated in the Health Care Proxy, the Health Care Provider shall exert reasonably diligent efforts to notify such Health Care Agent, through the contact details provided in the PhilHealth Membership Form, of the circumstances by which the Principal-Patient is under their care.

- (b) A Health Care Provider shall comply with the Health Care Decisions made by the designated Health Care Agent in good faith under a Health Care Proxy to the same extent as if such decisions have been made by the Principal-Patient, subject to any limitations provided in this Act.
- (c) A Principal-Patient may revoke a Health Care Proxy by notifying the Health Care Provider orally or in writing or by any other act evidencing a specific intent to revoke such proxy. In such cases, the Health Care Provider shall record such revocation in the Principal-Patient's medical records, and notify its relevant agents and employees, as well as the Health Care Agent of such revocation.

- (d) The Department of Health (DOH) shall issue guidelines for Health Care Providers including health insurance companies, health maintenance organizations (HMOs), and other facilities, institutions, and/or professionals in the healthcare system to recognize the Health Care Proxy of Principal-Patients, the Health Care Agents as the legally recognized representative of the Principal-Patients, and to act in accordance thereto.

SECTION 9. *Duties of Government Agencies.* – The following government agencies shall perform the respective duties provided under this Act:

- (a) Department of Health (DOH), as the lead implementing agency, shall:
1. Develop policies, standards, and guidelines to ensure the effective recognition and implementation of Healthcare Proxies and the exercise of authority by Healthcare Agents in healthcare settings;
 2. Integrate advance care planning and the recognition of Healthcare Proxies into hospital policies, patient rights frameworks, and clinical practice guidelines;
 3. Ensure that public and private healthcare facilities establish appropriate protocols for recognizing Healthcare Proxies and facilitating Healthcare Decisions made under this Act;
 4. Conduct capacity-building and training programs for Healthcare Providers on supported healthcare decision-making, patient autonomy, and the implementation of this Act;
 5. Create and maintain a secure, centralized Right to Care Registry System for the submission, verification, and archiving of Healthcare Proxies, which shall include:
 - i. a digital database accessible to authorized health facilities nationwide for real-time verification of registered Healthcare Proxies;
 - ii. protocols for the submission, amendment, and revocation of Healthcare Proxies, including verification procedures and consent requirements to protect patient confidentiality and data privacy;
 - iii. an assistance desk or point-of-contact unit within the DOH to assist individuals in the processing, verification, and enforcement of their Healthcare Proxy designations; and
 - iv. data protection safeguards to ensure the confidentiality, integrity, and lawful processing of personal and health information, in compliance with Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012, and its implementing rules and regulations, with the DOH acting as personal information controller thereunder;
 6. Monitor compliance with this Act and coordinate with appropriate regulatory bodies in enforcing administrative accountability.

(b) Philippine Health Insurance Corporation (PhilHealth) shall:

1. Establish appropriate systems for the recording and recognition of Healthcare Proxy designations within its membership and health information systems;
2. Ensure that the designation of a Healthcare Agent is reflected in PhilHealth Membership Forms and, where applicable, in PhilHealth Identification Cards;
3. Ensure that Healthcare Decisions made pursuant to this Act are recognized in the processing of benefit claims and healthcare coverage; and
4. Support public information initiatives to promote awareness of advance care planning and the designation of Healthcare Agents.

The extent to which a designated Healthcare Agent shall be recognized as a dependent of the Principal for purposes of PhilHealth coverage and benefits shall be determined by the Implementing Rules and Regulations, consistent with applicable laws governing PhilHealth membership and contributions.

(c) Department of the Interior and Local Government (DILG) and Local Government Units (LGUs) shall:

1. Support the local implementation of this Act through public education and community-based information campaigns;
2. Assist in integrating awareness of Healthcare Proxies and advance care planning into local health programs and services; and
3. Encourage the participation of barangay health workers and local health personnel in promoting public awareness of the rights and mechanisms provided under this Act.

(d) Other Government Agencies. All concerned government agencies shall cooperate with the Department of Health in the implementation of this Act and shall adopt measures within their respective mandates to support the effective recognition of Healthcare Agents and Healthcare Proxies.

SECTION 10. *Right to Care Card.* - The Department of Health (DOH) shall issue a Right to Care Card, upon application of the Principal-Patient and Health Care Agent, to correspond to the Health Care Proxy.

A validly issued Right to Care Card shall constitute prima facie proof of the existence and enforceability of the corresponding Health Care Proxy. It shall be given full legal effect in accordance with this Act: *Provided, That*, the absence of a Right to Care Card shall not in any way affect the

enforceability of a Health Care Proxy nor limit the scope of authority of a Health Care Agent designated in a Health Care Proxy.

SECTION 11. *Liability of Healthcare Cost.* – Healthcare provided pursuant to decisions made by a Healthcare Agent shall be treated as if such healthcare had been provided pursuant to the decision of the Principal. The cost incurred shall remain the obligation of the Principal, and unpaid healthcare costs shall form part of the obligations recoverable from the Principal, subject to applicable laws. The Healthcare Agent shall not be personally liable for any costs incurred in the provision of healthcare under this Act.

Subject to applicable social and financial protection laws, programs, and services, the Healthcare Agent may apply for government assistance on behalf of the Principal: *Provided*, That the Healthcare Agent shall not derive any financial benefit therefrom.

SECTION 12. *Non-Discrimination and Non-Limitation of Rights.* – No person or entity shall require, deny, or prohibit the execution of a Healthcare Proxy as a condition for the provision of healthcare or related services, including but not limited to services provided by health management organizations, insurance companies, or other healthcare institutions.

Nothing in this Act shall create, expand, diminish, impair, or supersede any existing authority of a Principal to make or express decisions, wishes, or instructions regarding Healthcare, whether or not expressed in a Healthcare Proxy.

Nothing in here shall be construed to permit the Healthcare Agent to consent to any act or omission to which the Principal could not consent under the law.

SECTION 13. *Penalties.* – The DOH, Professional Regulation Commission, PhilHealth and any other relevant government agencies may suspend or revoke the licenses, accreditation, or certifications of Healthcare Providers, and any of its authorized representatives and employees, or impose other administrative liabilities for any violation of this Act.

The imposition of administrative liabilities is without prejudice to the filing of appropriate civil or criminal action that may be filed by the relevant government agency, principal, or Healthcare Agent.

SECTION 14. *Implementing Rules and Regulations.* – The DOH, together with PhilHealth, relevant civil society organizations with proven track record, and other concerned stakeholders shall

formulate the necessary rules and regulations for the implementation of this Act within ninety (90) days upon its effectivity.

SECTION 15. *Appropriations.* – The amount necessary for the implementation of this act shall be charged against the current appropriations of the DOH, DILG, PhilHealth, and the LGUs.

SECTION 16. *Separability Clause.* – If any Section or provision of this Act is held unconstitutional or invalid, the remaining Sections or provisions with the provisions not affected thereby shall continue to be in full force and effect.

SECTION 17. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations, issuance or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 18. *Effectivity.* – This Act shall take effect fifteen (15) days after publication in the Official Gazette or two (2) newspapers of general circulation.

Approved,