



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



Twentieth Congress
First Regular Session

HOUSE BILL NO. 9743

Introduced by Representative Johanne Monich G. Bautista

EXPLANATORY NOTE

The rights to health and to individual autonomy are foundational principles enshrined in our Constitution. The right to health is closely linked with human dignity and personal autonomy. It includes not only the right to access to health care services, but also to participate in decisions affecting one's body and health. When a person is incapacitated to make health care decisions, respect for autonomy requires that their trusted representative be recognized.

In practice, when a patient becomes clinically incapacitated, health care providers consult the immediate family. While this may be sufficient in most cases, it does not reflect the lived realities of many Filipinos who are cared for by persons not falling within the standard next-of-kin definitions. These include elderly people living alone, persons whose relatives are far from home, persons living away from home, persons estranged from their families, persons with no family, and persons who rely on friends, companions, or caregivers for support.

The absence of a formal statutory mechanism also often triggers severe consequences, such as intra-family disputes, disenfranchisement of chosen support systems who do not fall within standard next-of-kin definitions, as well as legal exposure for health care institutions.

This bill addresses these critical gaps by institutionalizing a legal framework for health care proxies that balances patient autonomy with legal safeguards for patients, health care agents, and health care providers.

Ultimately, this measure protects the rights of the people to health and to personal autonomy. It guarantees an individual's right to make health care decisions, and ensures that such right is not lost when an individual is incapacitated to communicate or understand health care options. It is a practical, humane, and inclusive reform for patients, families, caregivers, and health care providers.

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


JOHANNE MONICH G. BAUTISTA
Representative, TRABAHO Party-List



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AN ACT
RECOGNIZING THE RIGHT TO DESIGNATE HEALTH CARE
AGENTS, INSTITUTIONALIZING HEALTH CARE PROXY,
AND FOR OTHER PURPOSES

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 “*Health Care Proxy Act*”.

SEC. 2. *Declaration of Policy.* – It is the policy of the State to protect and promote the right to health of the people and adopt an integrated and comprehensive approach to health development. It is also the policy of the State to guarantee the rights of the people to life, liberty, and equal protection of the laws, to enhance their right to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities. The State recognizes a person’s individual autonomy and right to make personal health care decisions.

Consistent with these policies, the State shall institutionalize a legal mechanism for health care proxies or the designation of health care agents, and define the scope and limitations of their authority. Through this measure, the State guarantees the right of the people to make health care decisions, and ensures that such right is not lost when a person is incapacitated to communicate or understand health care options.

SEC. 3. *Definition of Terms.* – As used in this Act, the following terms are defined as follows:

- a. ***Health care*** refers to any service or procedure to diagnose, prevent, treat, manage, or preserve an individual's physical or mental condition or well-being;
- b. ***Health care agent*** refers to the person designated in a health care proxy duly executed by the principal to make health care decisions on behalf of the principal;
- c. ***Health care decision*** refers to any decision to consent, refuse to consent, or withdraw consent for any health care, medical care, treatment, service, diagnostic procedure, or life-sustaining intervention;
- d. ***Health care provider*** refers to an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer or provide health care in the ordinary course of business or practice. Unless the context otherwise requires or is otherwise specified, references to health care providers include their agents and employees;
- e. ***Health care proxy*** refers to a legal document duly executed by a competent individual appointing a health care agent to make health care decisions on behalf of the principal when the principal is incapacitated;
- f. ***Incapacity*** refers to a clinical condition, as determined by an attending physician, where a patient lacks the ability to understand the nature, consequences, and risks of a health care treatment, or lacks the capacity to make or communicate an informed decision regarding their health care; and
- g. ***Principal*** refers to any person of legal age, of sound mind, and with legal capacity to make health care decisions, who executes a health care proxy.

SEC. 4. *Execution and Requirements of Health Care Proxy.* – In order to be valid, a health care proxy must comply with the following:

- a. It must be in writing, dated, and signed by the principal;
- b. It must clearly identify the person being designated as health care agent, and an alternate proxy who may act in the event the primary proxy is unable or unwilling to serve;

- c. It must expressly state that the principal authorizes the health care agent to make health care decisions on the principal's behalf when the principal is incapacitated to do so;
- d. It must expressly state any limitations or conditions to the authority of the health care agent, and any preference or special instruction of the principal as regards the health care agent's authority to make health care decisions for the principal;
- e. The document must be duly notarized. If notarization is not immediately practicable, including during emergencies, the health care proxy may be executed before two (2) disinterested witnesses, subject to subsequent confirmation, notarization, or other verification requirements, in accordance with the implementing rules and regulations of this Act; and
- f. The designated health care agent and the principal's attending physician or health care provider cannot act as attesting witnesses to the execution of a health care proxy.

SEC. 5. *Qualifications of a Health Care Agent.* – A principal may appoint any competent person of legal age as their health care agent, except the following:

- a. The principal's attending physician or health care provider, including their agents or employees;
- b. Any person who is the paramour or extramarital partner of the principal, or who is in an adulterous or concubinage relationship with the principal; or
- c. Any person who falsifies or forges a supposed health care proxy of the principal.

SEC. 6. *Authority of a Health Care Agent.* – A health care agent designated in a duly executed health care proxy shall be recognized as the legally authorized representative of the principal to make health care decisions on the principal's behalf when the principal is incapacitated to make such decisions.

The authority of the health care agent shall commence upon due determination by the attending physician that the principal is incapacitated to make health care decisions. Health care decisions made by the health care agent on the principal's behalf when the principal is incapacitated shall be honored to the exclusion of any other person, subject to Section 10 of this Act.

Subject to any express limitation in the health care proxy, the provisions of this Act, and other applicable laws, a health care agent shall have the authority to make health care decisions on the principal's behalf when the principal is incapacitated, including, but not limited to, the following:

- a. Authority to access, review, and receive medical records and other information relative to the health status and medical condition of the principal, and professional medical advice for the purpose of making informed and proper health care decisions on the principal's behalf, in accordance with the provisions of Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012";
- b. Authority to give consent to perform or administer emergency medical treatment and/or management;
- c. Authority to give consent to perform diagnostic and/or therapeutic procedures;
- d. Authority to give consent to admission to an Intensive Care Unit;
- e. Authority to sign confinement forms and other health care documents necessary to implement health care decisions;
- f. Authority to process and claim health care-related reimbursements, benefits, proceeds, claims, or assistance due to the principal: Provided, That such authority shall be limited to matters directly arising from, or related to, the principal's health care, medical condition, hospitalization, treatment, confinement, or recovery: Provided, further, That any amount received by the health care agent shall be received solely in a representative and fiduciary capacity, and shall accrue, be applied, or accounted for solely for the benefit of the principal, including the costs of the principal's healthcare;
- g. Authority to give consent to the use of lifesaving or life-sustaining treatments or devices, including, but not limited to, ventilators;
- h. Authority to consent to, refuse, or withdraw consent to resuscitative measures, including the issuance or implementation of a Do Not Resuscitate (DNR) order, subject to Department of Health (DOH) guidelines, hospital ethics protocols, the rights of patients, medical ethics, professional standards, and applicable laws;
- i. Authority to give consent to intubation;

- j. Authority to provide or give consent to bedside and nursing care services; and
- k. Authority to make other decisions necessary for the principal's health care, consistent with the provisions of this Act and its implementing rules and regulations.

In making health care decisions on the principal's behalf, the health care agent shall make decisions strictly in accordance with the principal's express instructions, known wishes, moral values, preferences, religious beliefs, and best interests, taking into account medical advice, relief of suffering, preservation of dignity, and applicable laws, medical ethics, professional standards, and hospital protocols. The health care agent shall act in good faith and solely for the purpose of protecting the principal's health, dignity, and expressed wishes.

If the attending physician determines that the principal has regained decision-making capacity, the authority of the health care agent shall immediately cease, and the principal's direct decisions shall prevail.

SEC. 7. *Duration, Amendment, and Revocation of Health Care Proxy.* – A duly executed health care proxy shall remain in full force and effect for the duration expressly stated therein, or until subsequently superseded by a later and duly executed health care proxy, or until revoked, nullified, or invalidated.

Any amendment, replacement, or designation of a health care agent through a subsequently executed health care proxy shall operate as an automatic revocation of any previous health care proxy, unless the principal expressly provides otherwise.

The principal may revoke a health care proxy at any time and for any reason through (a) written revocation; (b) oral statement or any other act clearly indicating the intent to revoke made in the presence of the attending physician; or (c) execution of a subsequent health care proxy designating another health care agent, unless the principal expressly provides otherwise.

A health care proxy may likewise be revoked, nullified, or invalidated by a court of competent jurisdiction on the ground that the document was executed or caused to be executed by means of fraud, violence, intimidation, or undue influence.

SEC. 8. *Obligations of Health Care Providers.* – All health care providers are mandated to:

- a. Recognize, give effect, and record in the principal's medical records a duly executed health care proxy under this Act;

- b. Determine the capacity or incapacity of the principal to make health care decisions;
- c. Exert reasonable and diligent efforts to notify and communicate with the health care agent when the principal is incapacitated for purposes of administering health care for the principal;
- d. Provide the health care agent access to the medical records and other information relating to the health status and condition of the principal, and professional medical advice for the purpose of making informed health care decisions on the principal's behalf, in accordance with the provisions of Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012";
- e. Comply in good faith with the health care decisions made by the health care agent on the principal's behalf to the same extent as if such decisions were made by the principal, subject to the provisions of this Act;
- f. Defer to the authority of the health care agent over any other person, subject to the provisions of this Act;
- g. Promptly record in the principal's medical records any revocation of a health care proxy and take reasonable steps to inform its relevant personnel as may be necessary; and
- h. Perform any other action as may be necessary to comply with the provisions of this Act and its implementing rules and regulations.

SEC. 9. *Immunity from Liability.* – No physician, health care professional, or health care provider shall be subject to any criminal, civil, or administrative proceeding for relying in good faith on a health care decision made by a health care agent, or for any act or omission undertaken in good faith in reliance on a duly executed health care proxy, provided that:

- a. The attending physician has verified the principal's incapacity;
- b. The decision was made within the scope of the health care agent's authority under a duly executed health care proxy; and
- c. The health care provider had no actual knowledge of the health care proxy's revocation at the time of the implementation of the health care decision made by the health care agent.

Nothing in this Act shall delay or prevent health care providers from administering necessary emergency care when immediate action is required to preserve life, prevent serious harm, or address an urgent medical condition, and the principal's or the health care agent's decision cannot be reasonably obtained in a timely manner. The health care provider shall, as soon as practicable, verify the existence of a health care proxy and notify the health care agent when the principal is incapacitated.

A health care agent shall likewise be free from civil, criminal, or administrative liability for making health care decisions in good faith and within the scope of authority granted under a duly executed health care proxy.

The foregoing immunity shall extend to acts undertaken in good faith in reliance on a health care proxy, but shall not apply in cases of bad faith, fraud, gross negligence, willful misconduct, abuse, coercion, conflict of interest, or acts punishable under existing law.

SEC. 10. *Conflicts on the Authority for Health Care Decisions.* – In case of conflict in authority to make health care decisions on the principal's behalf between a health care agent and any person other than the principal, the authority of the health care agent under a duly executed health care proxy shall prevail, in accordance with the provisions of this Act.

The authority of the health care agent shall not prevail in any of the following cases:

- a. The principal is not incapacitated to make health care decisions;
- b. The health care agent is incapacitated to make health care decisions on the principal's behalf;
- c. The health care agent withdraws or refuses to exercise their authority under the health care proxy;
- d. The health care agent is disqualified from being designated as a health care agent, pursuant to Section 5 of this Act;
- e. The health care proxy designating the health care agent was not duly executed in accordance with the provisions of this Act; or
- f. The health care proxy has been revoked by the principal, superseded by a later health care proxy duly executed by the principal, or invalidated by a court of competent jurisdiction.

In case of conflicting or inconsistent health care proxies, the health care proxy duly executed by the principal at a later date shall prevail, unless revoked, superseded, or invalidated in accordance with the provisions of this Act.

When the principal is incapacitated and the health care agent cannot be reached or located, is unavailable or unresponsive, withdraws or refuses to exercise their authority, or the health care proxy is not duly executed, revoked, or invalidated, the authority of the person/s to make health care decisions on the principal's behalf under existing laws shall prevail.

SEC. 11. *Health Care Costs and Financial Liability.* – Liability for the costs of health care services, treatments, or procedures provided to the principal pursuant to the health care decisions made by a health care agent shall be treated as if the health care were provided pursuant to the principal's own decisions, without prejudice to existing laws, insurance contracts, or benefit entitlements.

A health care agent shall not be personally liable for the principal's health care costs solely by reason of acting as health care agent, unless the agent separately and expressly assumes financial responsibility, or is otherwise liable under existing laws.

The authority of a health care agent to process and claim, on behalf of the principal, health care-related reimbursements, benefits, proceeds, claims, or assistance shall not, by itself, make the health care agent personally liable for the principal's health care or medical expenses, or other financial liabilities. Any amount received by the health care agent shall be received solely in a representative and fiduciary capacity, and shall accrue, be applied, or accounted for solely for the benefit of the principal, including the costs of the principal's health care.

SEC. 12. *Non-compulsion and Non-discrimination in Health Care and Allied Service.* – No person, institution, or entity, including health care providers, health insurance companies, or health maintenance organizations shall require, compel, prohibit, or deny the execution of a health care proxy as a condition for providing health care services, insurance coverage, or any related benefit.

No person shall be denied access to health care services, insurance, benefits, or related support solely on the basis of having, not having, declining to have, or revoking a health care proxy.

SEC. 13. *Non-limitation.* – Nothing in this Act shall be construed to create, expand, diminish, impair, or supersede any authority of a principal under existing laws to make or express decisions, wishes, or instructions concerning health care, whether or not expressed in a health care proxy. Nothing herein shall be construed to authorize a health care agent to exercise general authority over the principal's

property, finances, civil affairs, employment, insurance, or benefit entitlements, except to the limited extent necessary to process and claim health care-related reimbursements, benefits, proceeds, claims, or assistance solely for the benefit of the principal, including the costs of the principal's health care.

SEC. 14. *Penalties.* – Any violation of this Act shall be punished with a fine of not less than One Hundred Thousand Pesos (₱100,000.00), but not more than Five Hundred Thousand Pesos (₱500,000.00), or imprisonment of not less than one (1) year, but not more than three (3) years, or both, at the discretion of the court.

Where the offender is a corporation, partnership, association, or other juridical entity, the penalty of imprisonment shall be imposed on the responsible officer/s who knowingly authorized, participated in, or tolerated the violation.

Any person who conceals, falsifies, alters, or forges a health care proxy duly executed by the principal pursuant to this Act shall be punished with a fine of not less than Two Hundred Thousand Pesos (₱200,000.00), but not more than Five Hundred Thousand Pesos (₱500,000.00), or imprisonment of not less than two (2) years, but not more than four (4) years, or both, at the discretion of the court.

The DOH, the Professional Regulation Commission, the Insurance Commission, or any other relevant government agency may, within their respective jurisdictions and after due notice and hearing, suspend, revoke, or impose appropriate administrative sanctions upon the license or certification of authority, accreditation, or other authorization of any health care provider, health care professional, health insurance company, health maintenance organization, or other covered entity, and any of its agents and employees that violate the provisions of this Act.

SEC. 15. *Public Information and Assistance.* – The DOH, in coordination with local government units, civil society organizations, professional associations, and other relevant stakeholders, shall conduct public information, education, and assistance programs on the right to designate a health care agent, and the rights and obligations under this Act.

SEC. 16. *Data Privacy and Confidentiality.* – The collection, use, storage, disclosure, verification, and processing of personal information, sensitive personal information, medical records, health information, benefit records, insurance records, employment-related claim documents, financial claim documents, and other information processed under this Act shall comply with Republic Act No. 10173, otherwise known as the “Data Privacy Act of 2012”, its implementing rules and regulations, and other relevant and applicable laws.

SEC. 17. *Implementing Rules and Regulations.* – The DOH, in consultation with the Philippine Medical Association, professional organizations, and other relevant stakeholders, shall promulgate the necessary rules and regulations for the implementation of this Act within ninety (90) days upon its effectivity. Such rules and regulations shall include the necessary guidelines to ensure the uniform recognition of health care proxies and the authority of health care agents under this Act.

SEC. 18. *Separability Clause.* – If any section or provision of this Act is held unconstitutional or invalid, the remaining sections or provisions not affected thereby shall continue to be in full force and effect.

SEC. 19. *Transitory Provision.* – Health care proxies or equivalent instruments validly executed pursuant to local ordinances, hospital policies, or other existing mechanisms prior to the effectivity of this Act shall remain valid, subject to subsequent verification, updating, or substantial compliance with the provisions of this Act. Local government units with existing Right to Care ordinances may continue to implement their systems, provided that such systems shall be harmonized with the provisions of this Act.

SEC. 20. *Repealing Clause.* – Title X – Agency of Republic Act No. 386, otherwise known as the Civil Code of the Philippines, and Executive Order No. 209, otherwise known as the Family Code of the Philippines, are hereby modified accordingly, insofar as they are inconsistent with the provisions of this Act. All other laws, decrees, executive orders, rules and regulations inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after publication in the Official Gazette or two (2) newspapers of general circulation.

Approved,