

BOVE & LANGA

LAW FIRM

10 Tremont Street, Suite 600 | Boston, MA 02108
www.bovelanga.com | p 617.720.6040 | f 617.720.1919

END OF LIFE CONSIDERATIONS

While you are living and able to communicate your wishes, you control your health care decisions. If you are no longer able to do so, Massachusetts law places the responsibility for health care decision-making in the hands of the person you appoint as your *health care agent* under your *health care proxy*.

In the health care proxy you provide guidance as to how you hope your health care agent will act, and you can even restrict the health care agent's decision-making capability. For example, you could require a court to step in to make decisions as to the administration of anti-psychotic medication, or you could leave those decisions in the hands of your health care agent.

Within the health care proxy, there is a non-binding portion so called a *living will* where you set forth your wishes as to "end of life care." Generally speaking, this will become effective when it is medically determined that your brain has irrevocably ceased to function, but your body lives: some want liberal pain medication and no heroic measures, and some want their medical professionals to do all that is possible to keep some measure of life in existence. In your living will you will set forth your wishes, to be carried out by your health care agent.

In order for the health care agent to make the decisions in an informed manner, your agent needs access to your medical information, and thus a *HIPAA authorization and release* is also signed by you granting your health care agent that access.

For persons who have serious medical conditions (such as life threatening diseases, chronic progressive illnesses, dementia, or serious injury), a physician prepared Medical Order for Life Sustaining Treatment ("MOLST") or Do Not Resuscitate ("DNR") order may be of assistance. The MOLST replaces the function of the DNR. A valid MOLST or DNR will prevent resuscitation. Your Health Care Proxy alone does not accomplish this. A MOLST additionally allows you to request or refuse a number of other medical services, whereas by contrast a DNR only allows you to refuse resuscitation. We did not prepare either of these orders for you, because they are medical records. They must be prepared with and signed by a medical professional and you (or your health care agent). If you think a MOLST is appropriate for you, please consult a physician.

After death, your *personal representative* nominated under your *Last Will and Testament* ("your Will") legally controls what happens to your remains. This includes decisions regarding organ donation, autopsy, medical research, and burial. Even though it is the personal representative that controls these decisions, your thoughts as to these items are best placed in a document you prepare separate from your Will, and kept with your health care proxy and your Will. We also recommend you discuss them with your family in advance of an illness, so everyone is prepared when that time comes, as it comes for all of us.

To guide you in your decision-making, here are some items to think about:

I. End of Life

- a. Do you want “heroic measures” used to prolong your life? The term “heroic measures” is often used to mean all measures designed to prolong life including, without limitation the application of cardiopulmonary resuscitation, mechanical respiration, kidney dialysis or the use of other external mechanical and technological devices which provide organ assistance, drugs to maintain blood pressure, blood transfusions, antibiotics, invasive surgery, and artificial nutrition and hydration (which includes, without limitation, medically or surgically implanted tubes into the stomach/gastrointestinal tract and all intravenous and/or subcutaneous tissue infusion).
- b. Is there anyone (family or religious) you want near you at the end of life?
- c. Are there favorite items you would like near you? Music?

II. Body

- a. Is it okay for an autopsy to be performed?
- b. List permissible organs to be donated, if any.
- c. Do you want to explicitly restrict any particular organs from being donated?
- d. If you permit organ donation, can they be used for transplantation, research, education, or any other reason? Any restrictions?

III. Celebration of Your Life

- a. Do you want a funeral (casket) or memorial service (no casket)? Both?
- b. Should the service be religious? How so?
- c. Should your funeral to be held at a particular location?
- d. Favorite hymn or scripture verse?
- e. Particular funeral home?
- f. If available, is there an officiant you prefer?
- g. If entitled to a military funeral, would you want one?
- h. Do you want flowers? Or a charitable donation in lieu of flowers? If so, do you want to designate the charity?

IV. Involvement of Others

- a. Who should serve as your pallbearers?
- b. Who should speak at your service?
- c. Are there group(s) who should be notified of your death (community group, parish, neighbors, book group, etc.)? Will your family know how to contact them, or at least one representative who can let the others know of your death?

V. Financial Matters

- a. Do you have pre-paid funeral arrangements? If so, with whom?
- b. Do you have a burial account or burial life insurance? If so what is the account number and location/company?

VI. Final Resting Place

- a. Do you want your body to be cremated? Buried? Cremated with the ashes buried, or disposed of in a particular manner?
- b. Have you purchased a burial plot? Where is it located, and where is the deed?
- c. Do you want ashes disposed of in a particular manner?
- d. Any thoughts as to a grave marker or monument desired?

VII. Personal Information for Obituary

- a. Have you written your own obituary (some do!)? There are many helpful guides on the internet, such as www.obituaryguide.com.
- b. Do you want your family to have a professional write your obituary? See www.obitwriters.org, for example.
- c. Is there someone your personal representative should ask to write your obituary? Do you not want an obituary at all?

VIII. Anything Else You Think Is Relevant