SENATE DOCKET, NO. FILED ON: 1/12/2009

**SENATE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Mr. Brown**

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*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 passage of the accompanying bill:

An Act relative to health care proxies.

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PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Mr. Brown | Norfolk, Bristol and Middlesex |
| Mr. Hedlund | Plymouth and Norfolk |
| Mr. Knapik | Second Hampden and Hampshire |
| Mr. Tarr | First Essex and Middlesex |
| Mr. Tisei | Middlesex and Essex |
| Todd M. Smola | 1st Hampden |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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An Act relative to health care proxies.

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

SECTION 1.Chapter 201D of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 2, the following section:-

Section 2A. No person shall be named a health care agent by execution of a health care proxy who: (i) is currently being investigated or is the subject of a criminal complaint or an indictment for any violation of chapter 265 that resulted in serious bodily injury to a principal who has become incapacitated; or (ii) is currently being investigated by law enforcement, the department of elder services or the office of children and families for neglect, or is the subject of a criminal complaint or indictment therefore, of a principal who has become incapacitated; or (iii) has been convicted of committing an assault and battery [a violation of said chapter 265]or neglect and the commission of such offense resulted in serious bodily injury to a principal who has become incapacitated. The commissioner of the department of public health, the board of registration in medicine and the board of registration in nursing shall adopt regulations to implement this section.

SECTION 2. Section 7 of said chapter 201D, as so appearing, is hereby amended by striking out the words “, or (ii)”, in line 8, and inserting in place thereof the following words:- ; (ii) a finding, pursuant to section 17 that an agent is wholly or partly responsible for the incapacity of the principal; and (iii).

SECTION 3. Section 17 of said chapter 201D, as so appearing, is hereby amended by striking out the words “or is acting in bad faith”, in line 10, and inserting in place thereof the following words:- , is acting in bad faith, or the agent is wholly or partly responsible for the incapacity of the principal.