SENATE DOCKET, NO. 1128 FILED ON: 1/20/2011

SENATE . . . . . No. 853

The Commonwealth of Massachusetts

PRESENTED BY:

Richard J. Ross

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:

An Act relative to health care proxies.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard J. Ross	*Norfolk, Bristol, and Middlesex*
James J. Dwyer	*30th Middlesex*
Bruce E. Tarr	
	☐ *[District]*
	☐

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SENATE . . . . . No. 853

By Mr. Ross, a petition (accompanied by bill, Senate, No. 853) of Richard J. Ross, James J. Dwyer and Bruce E. Tarr for legislation relative to health care proxies. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1591* OF 2009-2010.]

The Commonwealth of Massachusetts

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 2008 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; (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

20 following words:- ,is acting in bad faith, or the agent is wholly or partly responsible for the
21 incapacity of the principal