

MAINE STATE LEGISLATURE

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R.O.S.

L.D. 1916

DATE: 4/16/04

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION

HOUSE AMENDMENT "D" to COMMITTEE AMENDMENT "A" to H.P. 1418, L.D. 1916, Bill, "An Act To Correct Errors and Inconsistencies in the Laws of Maine"

Amend the amendment by inserting after Part F a new part to read:

PART G

Sec. G-1. 18-A MRSA §5-804, Pt. 1, as amended by PL 2003, c. 618, Pt. C, §3, is further amended to read:

PART 1

POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health-care decisions for me:

(name of individual you choose as agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

OPTIONAL: If I revoke my agent's authority or if my agent is not willing, able or reasonably available to make a health-care decision for me, I designate as my first alternate agent:

(name of individual you choose as first alternate agent)

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2
 (address) (city) (state) (zip code)

4
6 (home phone) (work phone)

8
10 OPTIONAL: If I revoke the authority of my agent and first
12 alternate agent or if neither is willing, able or reasonably
14 available to make a health-care decision for me, I designate as
my second alternate agent:

16
18 (name of individual you choose as second alternate agent)

20
 (address) (city) (state) (zip code)

22
24 (home phone) (work phone)

26 (2) AGENT'S AUTHORITY: My agent is authorized to make all
28 health-care decisions for me, including decisions to provide,
30 withhold or withdraw artificial nutrition and hydration and all
other forms of health care to keep me alive, except as I state
here:

32
34
36
38 (Add additional sheets if needed.)

40 (3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's
42 authority becomes effective when my primary physician determines
44 that I am unable to make my own health-care decisions unless I
46 mark the following box. If I mark this box [], my agent's
authority to make health-care decisions for me takes effect
immediately.

48 (4) AGENT'S OBLIGATION: My agent shall make health-care
50 decisions for me in accordance with this power of attorney for
health care, any instructions I give in Part 2 of this form and
my other wishes to the extent known to my agent. To the extent
my wishes are unknown, my agent shall make health-care decisions
for me in accordance with what my agent determines to be in my
best interest. In determining my best interest, my agent shall
consider my personal values to the extent known to my agent.

 (5) NOMINATION OF GUARDIAN: If a guardian of my person
needs to be appointed for me by a court, I nominate the agent
designated in this form. If that agent is not willing, able or

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2 reasonably available to act as guardian, I nominate the alternate
agents whom I have named, in the order designated.

4 ~~(6)---HEALTH---INFORMATION---AND---OTHER---MEDICAL---RECORDS;---In~~
5 ~~addition-to-the-other-powers-granted-by-this-document,-I-grant-to~~
6 ~~my-agent-the-power-and-authority-to-serve-as-my-personal~~
7 ~~representative-for-all-purposes-of-the-federal-Health-Insurance~~
8 ~~Portability-and-Accountability-Act-of-1996,-42-United-States~~
9 ~~Code,-Section-1320d-et-seq.,--"HIPAA,"-and-its-regulations,-45~~
10 ~~Code-of-Federal-Regulations-160-164,-during-any-time-that-my~~
11 ~~agent-is-exercising-authority-under-this-document---I-intend-for~~
12 ~~my-agent-to-be-treated-as-I-would-be-with-respect-to-my-rights~~
13 ~~regarding-the-use-and-disclosure-of-my-individually-identifiable~~
14 ~~health-information-and-other-medical-records---This-release~~
15 ~~authority-applies-to-any-information-governed-by-HIPAA.~~

16 I-authorize-any-physician,-health-care-professional,-dentist,
17 health-plan,-hospital,-clinic,-laboratory,-pharmacy-or-other
18 covered-health-care-provider,-any-insurance-company-and-any
19 health-care-clearinghouse-that-has-provided-treatment-or-services
20 to-me-or-that-has-paid-for,-or-is-seeking-reimbursement-from-me
21 for,-such-services-to-give,-disclose-and-release-to-my-agent,
22 without-restriction,-all-of-my-individually-identifiable-health
23 information-and-medical-records-regarding-any-past,-present-or
24 future-medical-or-mental-health-condition,-to-include-all
25 information-relating-to-the-diagnosis-and-treatment-of-HIV/AIDS,
26 sexually-transmitted-diseases,-mental-illness-and-drug-or-alcohol
27 abuse.

28
29
30 The-authority-given-to-my-agent-supersedes-any-prior-agreement
31 that-I-may-have-made-with-my-health-care-providers-to-restrict
32 access-to-or-disclosure-of-my-individually-identifiable-health
33 information---The-authority-given-to-my-agent-has-no-expiration
34 date-and-expires-only-in-the-event-that-I-revoke-the-authority-in
writing-and-deliver-it-to-my-health-care-providers.

35
36 **Sec. G-2. Effective date.** This Part takes effect 90 days after
37 adjournment of the Second Special Session of the 121st
38 Legislature.'

39
40 Further amend the amendment by relettering or renumbering
41 any nonconsecutive Part letter or section number to read
42 consecutively.

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SUMMARY

49 This amendment removes language from the optional form for
50 power of attorney for health care that provides the agent the

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2 authority to serve as personal representative for all purposes of
the federal Health Insurance Portability and Accountability Act
4 of 1996, also know as "HIPAA." It also removes language that
states the principal's intention that the agent be treated as the
6 principal with respect to the use and disclosure of individually
identifiable health information and other medical records.

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(Representative NORBERT)

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TOWN: Portland

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