

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

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Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
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J.S. McCarthy Co., Inc.
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1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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ONE HUNDRED AND TWELFTH LEGISLATURE

1985

Sec. 4. 24 MRSA §2511, as enacted by PL 1977, c. 492, §3, is amended to read:

§2511. Immunity

Any person acting without malice, and any physician, health care provider, professional society, or member of a professional competence committee or of the board, in making any report or other information available to the board or to a professional review committee pursuant to law, or in assisting in the origination, investigation or preparation of such information, or in assisting the board or a professional review committee in carrying out any of its duties or functions provided by law, shall be immune from civil or criminal liability, except as provided in section 2510, subsection 4, for any such actions.

Sec. 5. 32 MRSA §3298 is enacted to read:

§3298. Establishment of protocols for operation of professional review committee

The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols shall include the committee reporting information the board considers appropriate regarding reports received, contacts or investigations made and the disposition of each report, provided that the committee may not be required to disclose any personally identifiable information. Nothing in the protocols may prohibit an impaired physician from seeking alternative forms of treatment.

Effective September 19, 1985.

CHAPTER 186

H.P. 1004 - L.D. 1448

AN ACT Concerning Living Wills.

Be it enacted by the People of the State of Maine as follows:

22 MRSA c. 710-A is enacted to read:

CHAPTER 710-ALIVING WILLS§2921. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Attending physician. "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

2. Declaration. "Declaration" means a document executed in accordance with the requirements of section 2922.

3. Health care provider. "Health care provider" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

4. Life-sustaining procedure. "Life-sustaining procedure" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the dying process and shall not include nutrition and hydration.

5. Person. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, government, government subdivision or agency or any other legal entity.

6. Physician. "Physician" means an individual licensed to practice medicine in this State.

7. Qualified patient. "Qualified patient" means a patient who has executed a declaration in accordance with this chapter.

8. Terminal condition. "Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a short time.

§2922. Declaration relating to use of life-sustaining procedures

1. Declaration; execution. A competent individual 18 years of age or older may execute a declaration at any time directing that life-sustaining pro-

Witness _____
Address _____

§2923. Revocation of declaration

1. Revocation; communication. A declaration may be revoked at any time and in any manner by which the declarant is able to communicate an intent to revoke, without regard to mental or physical condition. A revocation is only effective as to the attending physician or any health care provider upon communication to the physician by the declarant or by another who witnessed the communication of the intent to revoke.

2. Revocation part of medical record. The attending physician or health care provider shall make the revocation a part of the declarant's medical record.

§2924. Recording determination of terminal condition and contents of declaration

Upon determining that the declarant is in a terminal condition, the attending physician who has been notified of the existence and contents of a declaration shall record the determination and the substance of the declaration in the declarant's medical record.

§2925. Treatment of qualified patients

1. Decisions regarding use of life-sustaining procedures. A qualified patient has the right to make decisions regarding use of life-sustaining procedures as long as the patient is able to do so. If a qualified patient is not able to make those decisions, the declaration shall govern decisions regarding use of life-sustaining procedures.

2. Comfort care; alleviation of pain. This chapter does not prohibit any action considered necessary by the attending physician to provide for comfort care or the alleviation of pain.

§2926. Transfer of patients

An attending physician or health care provider who is unwilling to comply with this chapter shall take all reasonable steps to effect the transfer of the declarant to another physician or health care provider in order to comply with this chapter.

§2927. Immunities

1. Actions in the absence of actual notice of revocation of declaration. In the absence of actual notice of the revocation of a declaration, the following, while acting in accordance with the requirements of this chapter, are not subject to civil or criminal liability or charges of unprofessional conduct:

A. A physician who causes the withholding or withdrawal of life-sustaining procedures from a qualified patient; and

B. A person who participates in the withholding or withdrawal of life-sustaining procedures under the direction or with the authorization of a physician.

§2928. Penalties

1. Willful failure to transfer. A physician or health care provider who willfully fails to transfer in accordance with section 2926 is guilty of a Class E crime.

2. Failure to record determination of terminal condition. A physician who willfully fails to record the determination of a terminal condition in accordance with section 2924 is guilty of a Class E crime.

3. Concealing, canceling, defacing or obliterating declaration. Any person who willfully conceals, cancels, defaces or obliterates the declaration of another without the declarant's consent or who falsifies or forges a revocation of the declaration of another is guilty of a Class E crime.

4. Falsification or forgery of declaration. Any person who falsifies or forges the declaration of another or willfully conceals or withholds personal knowledge of a revocation as provided in section 2923, with the intent to cause a withholding or withdrawal of life-sustaining procedures, is guilty of a Class B crime.

§2929. General provisions

1. Death not suicide or homicide. Death resulting from the withholding or withdrawal of life-sustaining procedures pursuant to a declaration and in accordance with this chapter does not, for any purpose, constitute a suicide or homicide.

2. Declaration not to affect insurance. The making of a declaration pursuant to section 2922 does not affect in any manner the sale, procurement or issuance of any policy of life insurance, nor is it deemed to modify the terms of an existing policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures from an insured qualified patient, notwithstanding any term of the policy to the contrary.

3. Requirement of declaration as condition for insurance or health care services. A person may not prohibit or require the execution of a declaration by any individual as a condition for being insured for or receiving health-care services.

4. Presumption concerning life-sustaining procedure. This chapter creates no presumption concerning the intention of an individual who has not executed or who has revoked a declaration with respect to the use, withholding or withdrawal of life-sustaining procedures in the event of a terminal condition.

5. Patient's right concerning withholding or withdrawal of medical care. Nothing in this chapter may be interpreted to increase or decrease the right of a patient to make decisions regarding use of life-sustaining procedures as long as the patient is able to do so, or to impair or supersede any right or responsibility that any person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of this chapter are cumulative.

6. Mercy killing, euthanasia or suicide. This chapter does not condone, authorize or approve mercy killing, euthanasia or suicide.

§2930. Recognition of declarations executed in other states

A declaration executed in another state in compliance with the laws of that state or this State is validly executed for purposes of this chapter.

§2931. Presumption of validity

A physician or health care provider may presume in the absence of actual notice to the contrary that

a declaration executed in this State or another state complies with this chapter and is valid.

Effective September 19, 1985.

CHAPTER 187

H.P. 1005 - L.D. 1449

AN ACT to Revise the Laws Pertaining to Real Estate Attachments, Levy on Execution and Exempt Property.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §4151 is amended by adding at the end a new paragraph to read:

Following the entry of judgment in a civil action and prior to the issuance of a writ of execution upon the judgment, any interest in real or personal property, which is not exempt from attachment and execution, may be attached by the plaintiff by the filing in the registry of deeds for the county in which the property is located or the proper place pursuant to Title 11, section 9-401, subsection (1), of an attested copy of the court order awarding judgment. Fees for the recording of the order shall be as otherwise provided for similar documents. Notwithstanding section 4454, the filing shall constitute perfection of the attachment. The party whose property has been so attached shall be immediately notified by certified letter, mailed by the plaintiff to the party's last known address, which shall inform the party that an attachment has been filed against the party's real or personal property and shall specify the registry of deeds or office of the Secretary of State in which the attachment has been recorded.

Sec. 2. 14 MRSA §4154, as repealed and replaced by PL 1983, c. 125, §3, is amended to read:

§4154. Optional method of attachment

Any interest in real or personal property, which is not exempt from attachment and execution, may be attached by the plaintiff by the filing in the registry of deeds for the county in which the property is