

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2074

H.P. 1497

House of Representatives, January 4, 1990

Reported by Representative PARADIS from the Joint Standing Committee on Judiciary.

Reference to the Joint Standing Committee on Judiciary suggested and printing ordered under Joint Rule 19.

Ed Pert

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act Concerning Living Wills.



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

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

Sec. 1. 22 MRSA §2921, sub-§4, as enacted by PL 1985, c. 186, is amended to read:

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.~~ "Life-sustaining procedure" does not include artificially administered nutrition and hydration unless the individual elects in the declaration to include artificially administered nutrition and hydration in the definition of life-sustaining procedure.

Sec. 2. 22 MRSA §2921, sub-§9 is enacted to read:

9. Artificially administered nutrition and hydration. "Artificially administered nutrition and hydration" means the provision of nutrients and liquids through the use of tubes or intravenous procedures.

Sec. 3. 22 MRSA §2922, sub-§4, as enacted by PL 1985, c. 186, is amended to read:

4. Suggested form. A declaration may, but need not, be in the following form:

DECLARATION

If I should have an incurable or irreversible condition that will cause my death within a short time, and if I am unable to participate in decisions regarding my medical treatment, I direct my attending physician to withhold or withdraw life-sustaining procedures that merely prolong the dying process and are not necessary to my comfort or freedom from pain.

I elect to have the term "life-sustaining procedure"
yes no include artificially administered nutrition and hydration.

I understand that if I do not make the election to include artificially administered nutrition and hydration, the law does not include artificially administered nutrition and hydration in the definition of "life-sustaining procedure" which may be withheld or withdrawn according to this declaration.

2 Signed this _____ day of _____
4 date month year

6 Signature _____

8 City, County and

10 State of Residence _____
city county state

12 The declarant is known to me and voluntarily signed this document
14 in my presence.

16 Witness _____
Address _____

18 Witness _____
20 Address _____
22 _____

24 **STATEMENT OF FACT**

26 This bill is a recommendation of the subcommittee of the
28 Joint Standing Committee on Judiciary studying the termination of
30 medical care.

32 This bill amends the current living wills laws with regard
34 to the artificial administration of nutrition and hydration.
36 Current law allows competent persons to execute a document
38 directing the attending physician to withhold or withdraw
40 life-sustaining procedures should the patient be in a terminal
condition and not be competent to make treatment decisions at
that time. The definition of "life-sustaining procedure" does
not currently include the artificial administration of nutrition
and hydration.

42 This bill amends the definition of "life-sustaining
44 procedure" to allow persons to specifically provide in their
46 living wills that artificially administered nutrition and
48 hydration should be withheld or withdrawn if they are in a
terminal condition and the other terms of the living will apply.
This change will not preclude a person who has executed a living
will but who is still competent to direct the withholding or
withdrawal of artificially administered nutrition and hydration.

50 "Artificially administered nutrition and hydration" is
52 intended to include all tube and intravenous methods of providing
nutrients and liquids. The focus is on the inability of the

2 person to receive nourishment through spoon feedings or any other
method considered by most people as "ordinary." Any method
4 which, under normal circumstances, requires the actions of a
physician or other licensed health care professional to initiate
or maintain a life-sustaining procedure, such as inserting a
6 nasogastric tube, is not "ordinary" and should be considered a
method of artificial administration of nutrition and hydration.

8
10 This bill is not intended to affect the provision of care
necessary for the patient's comfort or freedom from pain.