

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1990

Legislative Document

No. 105

H.P. 77

House of Representatives, December 31, 1990

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative STEVENS of Bangor.

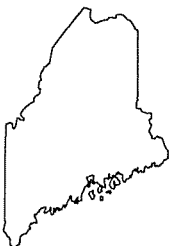
Cosponsored by Representative COTE of Auburn, Representative MacBRIDE of Presque Isle and Senator GAUVREAU of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Include the Testator's Birth Date in Statutory Living Wills.

(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, having the date of birth of an individual included in a living will can eliminate any confusion caused by instances when more than one patient in a hospital has the same name; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

18-A MRSA §5-702, as enacted by PL 1989, c. 830, §1, is amended to read:

§5-702. Declaration relating to use of life-sustaining treatment

(a) An individual of sound mind and 18 or more years of age may execute at any time a declaration governing the withholding or withdrawal of life-sustaining treatment. The declarant may designate another individual of sound mind and 18 or more years of age to make decisions governing the withholding or withdrawal of life-sustaining treatment. The declaration must be signed by the declarant, or another at the declarant's direction, and witnessed by 2 individuals.

(b) A declaration directing a physician to withhold or withdraw life-sustaining treatment may, but need not, be in the following form:

DECLARATION

If I should have an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of my attending physician, cause my death within a relatively short time, and I am no longer able to make or communicate decisions regarding my medical treatment, I direct my attending physician, pursuant to the Uniform Rights of the Terminally Ill Act of this State, to withhold or withdraw such treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain.

Optional: I direct my attending physician to withhold or withdraw artificially administered nutrition and hydration which that only prolongs the process of dying.

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Signature_____

NOTE: This optional provision must be signed to be effective.

Signed this_____day of_____.

Signature_____

Address_____

Date of birth_____

The declarant voluntarily signed this writing in my presence.

Witness_____

Address_____

Witness_____

Address_____

DECLARATION

If I should have an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of my attending physician, cause my death within a relatively short time, and I am no longer able to make or communicate decisions regarding my medical treatment, I appoint_____or, if he-or she my appointee is not reasonably available or is unwilling to serve,_____, to make decisions on my behalf regarding withholding or withdrawal of such treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain, pursuant to the Uniform Rights of the Terminally Ill Act of this State.

Optional: If the individual(s) I have so appointed is not reasonably available or is unwilling to serve, I direct my attending physician, pursuant to the Uniform Rights of the Terminally Ill Act of this State, to withhold or withdraw such treatment that only prolongs the process of dying and is not necessary for my comfort or to alleviate pain.

Signature_____

NOTE: This optional provision must be signed to be effective.

Optional: I direct my attending physician to withhold or withdraw artificially administered nutrition and hydration which that only prolongs the process of dying.

2 Signature_____

4 NOTE: This optional provision must be signed to be
6 effective.

8 Signed this_____day of_____.

10 Signature_____

12 Address_____

14 Date of birth_____

16 The declarant voluntarily signed this writing in my presence.

18 Witness_____

Address_____

20 Witness_____

22 Address_____

24 Name and address of designees.

26 Name_____

Address_____

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30 NOTE: Maine law provides that artificially administered
32 nutrition and hydration does not constitute a
life-sustaining treatment that may be withheld or withdrawn
pursuant to a living will declaration unless the declarant
elects otherwise in the declaration itself.

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36 (d) The designation of a judicially appointed guardian or
an attorney-in-fact appointed under a medical power of attorney
pursuant to Part 5, constitutes for purposes of this Part a
38 declaration designating another pursuant to subsection (a).

40 (e) A physician or other health-care provider who is
42 furnished a copy of the declaration shall make it a part of the
declarant's medical record and, if unwilling to comply with the
44 declaration, promptly so advise the declarant and any individual
designated to act for the declarant. This subsection does not
46 affect the duty of a physician or other ~~health-care~~ health-care
provider under section 5-708.

48 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

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STATEMENT OF FACT

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This bill amends the living will statute to include the testator's date of birth in the declaration form. Adding the date of birth will help hospitals to differentiate patients that have the same name.

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