

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1366

H.P. 944

House of Representatives, April 1, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PFEIFFER of Brunswick.

Cosponsored by Representative MARSANO of Belfast, Senator CLARK of Cumberland and Representative CLARK of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Amend the Uniform Rights of the Terminally Ill Act.

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

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Sec. 1. 18-A MRSA §5-701, sub-§(9), as enacted by PL 1989, c. 830, §1, is amended to read:

(9) "Terminal condition" means a persistent vegetative state or an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of the attending physician, result in death within a relatively short time.

Sec. 2. 18-A MRSA §5-702, sub-§§(b) and (c), as enacted by PL 1989, c. 830, §1, are amended to read:

(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 am found to be in a persistent vegetative state or 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 maintains the persistent vegetative state or 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 only maintains the persistent vegetative state or prolongs the process of dying.

Signature

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

Signed this day of , .

Signature

Address

The declarant voluntarily signed this writing in my presence.

Witness

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Address

Witness
Address

NOTE: Maine law provides that artificially administered 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.

(c) A declaration that designates another individual to make decisions governing the withholding or withdrawal of life-sustaining treatment may, but need not, be in the following form:

DECLARATION

If I am found to be in a persistent vegetative state or 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 is not reasonably available or is unwilling to serve, _____, to make decisions on my behalf regarding withholding or withdrawal of such treatment that only maintains the persistent vegetative state or 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 maintains the persistent vegetative state or 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 only maintains the persistent vegetative state or prolongs the process of dying.

Signature

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

4 Signed this day of

6 Signature

8 Address

10 The declarant voluntarily signed this writing in my presence.

12 Witness

14 Address

16 Witness

18 Address

20 Name and address of designees.

22 Name

Address

24 NOTE: Maine law provides that artificially administered
26 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
28 elects otherwise in the declaration itself.

30 Sec. 3. 18-A MRSA §§5-703 and 5-705, as enacted by PL 1989, c.
830, §1, are amended to read:

32 **§5-703. When declaration operative**

34 A declaration becomes operative when it is communicated to
36 the attending physician and the declarant is determined by the
attending physician to be in a persistent vegetative state or in
38 a terminal condition and no longer able to make or communicate
decisions regarding administration of life-sustaining treatment.
40 When the declaration becomes operative, the attending physician
and other health-care providers shall act in accordance with its
42 provisions and with the instructions of a designee under section
5-702, subsection (a) or comply with the transfer requirements of
44 section 5-708.

46 **§5-705. Recording determination of terminal condition and
declaration**

48 Upon determining that a declarant is in a permanent
50 vegetative state or in a terminal condition, the attending
physician who knows of a declaration shall record the

2 determination and the terms of the declaration in the declarant's
3 medical record.

4 **Sec. 4. 18-A MRSA §5-707, sub-§(a), ¶(1),** as enacted by PL 1989,
5 c. 830, §1, is amended to read:

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7 (1) Has been determined by the attending physician to be in
8 a permanent vegetative state or in a terminal condition and
9 no longer able to make or communicate decisions regarding
10 administration of life-sustaining treatment; and

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14 **STATEMENT OF FACT**

15 Although the Maine Supreme Judicial Court has twice approved
16 the withdrawal of life-sustaining treatment, in the form of
17 artificially administered nutrition and hydration from a person
18 in a persistent vegetative state, the Uniform Rights of the
19 Terminally Ill Act makes no reference to persons in that
20 condition. This bill amends that Act to make express provision
21 for persons in a persistent vegetative state.
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