

# 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)



# 115th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1992

---

Legislative Document

No. 2030

H.P. 1418

House of Representatives, January 7, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.  
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 CARROLL of Gray.

Cosponsored by Representative PENDEXTER of Scarborough and Representative  
PENDLETON of Scarborough.

---

STATE OF MAINE

---

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

---

**An Act to Clarify the Obligations of Emergency Medical Personnel.**

---

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

4 18-A MRSA §5-712, as enacted by PL 1989, c. 830, §1, is  
repealed and the following enacted in its place:

6 §5-712. When health-care provider may presume validity of  
8 declaration

10 (a) In the absence of knowledge to the contrary, a  
12 physician or other health-care provider may assume that a  
14 declaration complies with this Part and is valid. An emergency  
16 medical services person, licensed under Title 32, chapter 2-B,  
acting under the supervision of a physician and within a system  
of emergency medical care approved by the Emergency Medical  
Services Advisory Board may rely upon and give affect to a  
declaration or to the instructions of a designee under section  
5-702, subsection (a) when:

18 (1) The declaration has been communicated to the emergency  
20 medical services person;

22 (2) The emergency medical services person has no knowledge  
24 of any revocation of the declaration; and

26 (3) The emergency medical services person makes a good  
28 faith decision that the declaration applies to the  
circumstances presented.

30 (b) A person licensed by the Emergency Medical Services  
32 Advisory Board whose action in honoring a declaration is in  
34 accordance with this section is not subject to criminal or civil  
liability or discipline for unprofessional conduct, with respect  
to that action.

36 For the purposes of this section, the term "declaration"  
38 includes a so-called "do not resuscitate" order communicated to  
an emergency medical services person by a person employed by or  
credentialed by a nursing facility, hospital or hospice.

40 STATEMENT OF FACT

42 The purpose of this bill is to clarify in the existing law  
44 regarding the rights of the terminally ill that emergency medical  
46 personnel may rely upon the patient's advance directives such as  
48 a living will, a durable medical power of attorney or a do not  
resuscitate order in treating the patient. Currently, emergency  
50 medical services personnel may not honor a valid and legally  
authorized living will or other advance directives. This results  
in the emergency medical services attendant performing  
resuscitative efforts when a competent patient has given clear  
instructions otherwise.