

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 51, L.D. 76, Bill, "An Act to Amend the Uniform Health Care Decisions Law"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 18-A MRSA §5-805, sub-§(a), as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(a) A surrogate may make a decision to withhold or withdraw life-sustaining treatment for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity, no agent or guardian has been appointed or the agent or guardian is not reasonably available and the patient is in a terminal condition or a persistent vegetative state as determined by the primary physician. A surrogate is also authorized to make any health care decision, other than to withhold or withdraw life-sustaining treatment, for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity and no agent or guardian exists.

Sec. 2. 18-A MRSA §5-805, sub-§(b), ¶(4-A) is enacted to read:

(4-A) An adult who shares an emotional, physical and financial relationship with the patient similar to that of a spouse;

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### SUMMARY

This amendment replaces the bill. It amends the Maine version of the Uniform Health-care Decisions Act concerning when surrogates can make health care decisions for adult or emancipated minor patients, what those decisions may be and who may serve as a surrogate.

The uniform act authorizes a surrogate to make a health care decision for a patient who lacks capacity and either has no agent or guardian or whose agent or guardian is not reasonably available. The current Maine law is more limited. The only health care decision the Maine law specifically authorizes a surrogate to make is whether to withhold or withdraw life-sustaining treatment for a patient who lacks capacity and is either in a terminal condition or a persistent vegetative state. The surrogate can act only if there is no agent or guardian for the patient or if the agent or guardian is not reasonably available.

This amendment changes Maine law to operate more like the uniform law. It retains the current Maine law concerning a patient in a terminal condition or persistent vegetative state. In addition, it authorizes a surrogate to make any health care decision for a patient if the patient lacks capacity and no agent or guardian exists. The decision whether to withhold or withdraw life-sustaining treatment is limited to the circumstances described by current law: when the patient is in a terminal condition or a persistent vegetative state. The surrogate can make any health care decision other than withholding or withdrawing life-sustaining treatment for a patient in any circumstance as long as there is no guardian or agent.

This amendment expands the list of persons who can act as a surrogate for a patient. Added to the list after immediate family members is an adult who shares with the patient a relationship that is similar to a spousal relationship, that is, an emotional, physical and financial relationship.