

# MAINE STATE LEGISLATURE

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R.S.

L.D. 1120

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 797, L.D. 1120, Bill, "An Act to Amend the Uniform Health Care Decisions Act"

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 §5-801, sub-§(q), as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(q) "Surrogate" means an individual with capacity, other than a patient's agent or guardian, authorized under this Part to make a decision to withhold or withdraw life-sustaining treatment for a patient who does not have capacity and who is either in a terminal condition or in a persistent vegetative state health care decisions as provided in section 5-805.

Sec. 2. 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.

2 A surrogate also is authorized to make any other health care  
4 decision for a patient who is an adult or emancipated minor if  
6 the patient has been determined by the primary physician to lack  
8 capacity and no agent or guardian exists, except that a surrogate  
10 may not deny surgery, procedures or other interventions that are  
12 lifesaving and medically necessary.

8 A medically necessary procedure is one providing the most  
10 patient-appropriate intervention or procedure that can be safely  
12 and effectively given.

12 **Sec. 3. 18-A MRSA §5-805, sub-§(b), ¶(1-A) is enacted to read:**

14 (1-A) An adult who shares an emotional, physical and  
16 financial relationship with the patient similar to that of a  
18 spouse;'

20 **SUMMARY**

22 This amendment is the majority report of the committee. This  
24 amendment replaces the bill.

26 This amendment revises the definition of "surrogate" in the  
28 Uniform Health Care Decisions Act to remove the substantive  
30 decision-making authority, adding instead a cross-reference to  
32 the section that provides that decision-making authority.

34 This amendment revises the surrogate's decision-making  
36 authority to allow the surrogate, when no agent or guardian  
38 exists, to make any health care decision for a patient who lacks  
capacity, as determined by the primary physician, except that the  
surrogate may not deny surgery, procedures or interventions that  
are lifesaving and medically necessary.

36 This amendment revises the hierarchical list of persons who  
38 can act as a surrogate by moving a person who has a spouse-like  
relationship with the patient to one step below a spouse.