

# 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)



# 122nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2005

---

Legislative Document

No. 1567

H.P. 1105

House of Representatives, April 12, 2005

---

**An Act To Amend the Uniform Health-care Decisions Act  
Concerning Personal Representatives under Federal Law**

---

Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Speaker RICHARDSON of Brunswick.  
Cosponsored by Senator HOBBS of York and  
Representatives: CANAVAN of Waterville, CROSBY of Topsham, GLYNN of South  
Portland, PELLETIER-SIMPSON of Auburn, PINGREE of North Haven, Senator:  
HASTINGS of Oxford.

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

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48

**Sec. 1. 18-A MRSA §5-804, Pt. 1**, as amended by PL 2003, c. 688, Pt. M, §1 and affected by §2, is further amended to read:

PART 1

POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health-care decisions for me:

.....  
(name of individual you choose as agent)  
.....  
(address) (city) (state) (zip code)  
.....  
(home phone) (work phone)

OPTIONAL: If I revoke my agent's authority or if my agent is not willing, able or reasonably available to make a health-care decision for me, I designate as my first alternate agent:

.....  
(name of individual you choose as first alternate agent)  
.....  
(address) (city) (state) (zip code)  
.....  
(home phone) (work phone)

OPTIONAL: If I revoke the authority of my agent and first alternate agent or if neither is willing, able or reasonably available to make a health-care decision for me, I designate as my second alternate agent:

.....  
(name of individual you choose as second alternate agent)  
.....  
(address) (city) (state) (zip code)  
.....  
(home phone) (work phone)

(2) AGENT'S AUTHORITY: My agent is authorized to make all health-care decisions for me, including decisions to provide, withhold or withdraw artificial nutrition and hydration and all

2 other forms of health care to keep me alive, except as I state  
here:

4 .....  
.....  
6

(Add additional sheets if needed.)

8 (3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's  
authority becomes effective when my primary physician determines  
10 that I am unable to make my own health-care decisions unless I  
mark the following box. If I mark this box [ ], my agent's  
12 authority to make health-care decisions for me takes effect  
immediately.

14

(4) AGENT'S OBLIGATION: My agent shall make health-care  
16 decisions for me in accordance with this power of attorney for  
health care, any instructions I give in Part 2 of this form and  
18 my other wishes to the extent known to my agent. To the extent  
my wishes are unknown, my agent shall make health-care decisions  
20 for me in accordance with what my agent determines to be in my  
best interest. In determining my best interest, my agent shall  
22 consider my personal values to the extent known to my agent.

24 (5) NOMINATION OF GUARDIAN: If a guardian of my person  
needs to be appointed for me by a court, I nominate the agent  
26 designated in this form. If that agent is not willing, able or  
reasonably available to act as guardian, I nominate the alternate  
28 agents whom I have named, in the order designated.

30 (6) HEALTH INFORMATION AND OTHER MEDICAL RECORDS: In  
addition to the other powers granted by this document, I grant to  
32 my agent the power and authority to serve as my personal  
representative for all purposes of the federal Health Insurance  
34 Portability and Accountability Act of 1996, 42 United States  
Code, Section 1320d et seq., "HIPAA," and its regulations, 45  
36 Code of Federal Regulations, Section 160-164 (2004), during any  
time that my agent is exercising authority under this document.  
38 I intend for my agent to be treated as I would be with respect to  
my rights regarding the use and disclosure of my individually  
40 identifiable health information and other medical records. This  
release authority applies to any information governed by HIPAA.

42

I authorize any physician, health-care professional, dentist,  
44 health plan, hospital, clinic, laboratory, pharmacy or other  
covered health-care provider, any insurance company and any  
46 health-care clearinghouse that has provided treatment or services  
to me or that has paid for, or is seeking reimbursement from me  
48 for, such services to give, disclose and release to my agent,  
without restriction, all of my individually identifiable health  
50 information and medical records regarding any past, present or

2 future medical or mental health condition, to include all  
3 information relating to the diagnosis and treatment of HIV/AIDS,  
4 sexually transmitted diseases, mental illness and drug or alcohol  
5 abuse.

6 The authority given to my agent supersedes any prior agreement  
7 that I may have made with my health-care providers to restrict  
8 access to or disclosure of my individually identifiable health  
9 information. The authority given to my agent has no expiration  
10 date and expires only in the event that I revoke the authority in  
11 writing and deliver it to my health-care providers.

12  
13  
14 **SUMMARY**

15 **16** This bill amends the model advance health care directive  
17 contained in the Uniform Health-care Decisions Act to ensure that  
18 health care providers are not limited in the medical information  
19 they can provide to the patient's agent under the federal Health  
20 Insurance Portability and Accountability Act of 1996.