

# MAINE STATE LEGISLATURE

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L.D. 1144

Date: 6-16-21

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REPORT  
JUDICIARY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "B" to H.P. 822, L.D. 1144, "An Act To Amend the Law Regarding Advance Health Care Directives"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 18-C MRSA §5-803-A is enacted to read:

**§5-803-A. Remote signing of advance health care directives in health care facilities**

When a principal in a hospital or a residential health care facility has an infectious disease and is confined to a room or ward where isolation precautions prevent the physical presence of individuals or documents necessary for executing the principal's advance health care directives, staff, employees and agents of a hospital or a residential health care facility where the principal is located may assist and facilitate the execution of advance health care directives using the process provided in this section.

The principal may direct another individual physically located beyond the isolation area but in the same facility to sign the principal's name to the advance health care directive. If necessary, the principal may employ 2-way audiovisual communication technology to direct the individual to sign and to allow the signing to be witnessed. This audiovisual technology must allow direct contemporaneous interaction between the principal, the individual signing the document and any witness by sight and sound in real time.

The principal must be provided with an unsigned copy of the advance health care directive prior to the signing for the principal to review. The individual signing for the principal must be provided with the original advance health care directive. After it is signed and witnessed, a copy of the original advance health care directive must be given to the principal or the principal's agent if named in the advance health care directive. The signed and witnessed original advance health care directive must be filed with the principal's medical record as soon as possible.

If the principal or the principal's agent identifies any substantive difference between the unsigned copy and the signed and witnessed original advance health care directive, the

1 principal or the agent may revoke the advance health care directive by notifying the primary  
2 physician either orally or in writing.

3 This section does not apply to any other documents or settings or when advance health  
4 care directives are notarized.'

5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
6 number to read consecutively.

7 **SUMMARY**

8 This amendment is a minority report of the committee. It replaces the bill. It describes  
9 a special audiovisual protocol for signing advance health care directives in a hospital or  
10 residential health care setting. It may be used by staff, employees or agents of the hospital  
11 or residential health care facility to help a patient who is medically isolated in a room or  
12 ward to prevent the spread of infectious disease to complete the patient's advance health  
13 care directives. In addition to allowing a patient to direct an individual outside the patient's  
14 room to sign an advance health care directive for the patient, it allows the patient to  
15 communicate signing directions to an individual by means of 2-way audiovisual  
16 technology. It also allows other individuals who contemporaneously view the signing  
17 through audiovisual means to sign the document as witnesses. It includes an opportunity  
18 for the patient or the patient's agent to review a copy of the advance health care directive  
19 prior to its execution and after it has been signed. It allows the patient or the patient's agent  
20 to revoke the advance health care directive if a substantive difference is discovered upon  
21 review. It differs from the majority report in that it does not provide immunity for good  
22 faith acts or omissions by staff, employees or agents of the hospital or residential care  
23 facilities for their use of the remote signing process. It does not apply to any other  
24 documents or settings or when advance health care directives are notarized.