



Rep. Debbie Meyers-Martin

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10200HB0704ham001

LRB102 12654 LNS 23239 a

1 AMENDMENT TO HOUSE BILL 704

2 AMENDMENT NO. _____. Amend House Bill 704 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Health Care Surrogate Act is amended by
5 changing Section 10 as follows:

6 (755 ILCS 40/10) (from Ch. 110 1/2, par. 851-10)

7 Sec. 10. Definitions.

8 "Adult" means a person who is (i) 18 years of age or older
9 or (ii) an emancipated minor under the Emancipation of Minors
10 Act.

11 "Artificial nutrition and hydration" means supplying food
12 and water through a conduit, such as a tube or intravenous
13 line, where the recipient is not required to chew or swallow
14 voluntarily, including, but not limited to, nasogastric tubes,
15 gastrostomies, jejunostomies, and intravenous infusions.
16 Artificial nutrition and hydration does not include assisted

1 feeding, such as spoon or bottle feeding.

2 "Available" means that a person is not "unavailable". A
3 person is unavailable if (i) the person's existence is not
4 known, (ii) the person has not been able to be contacted by
5 telephone or mail, or (iii) the person lacks decisional
6 capacity, refuses to accept the office of surrogate, or is
7 unwilling to respond in a manner that indicates a choice among
8 the treatment matters at issue.

9 "Attending physician" means the physician selected by or
10 assigned to the patient who has primary responsibility for
11 treatment and care of the patient and who is a licensed
12 physician in Illinois or a physician licensed in the state
13 where the patient is being treated. If more than one physician
14 shares that responsibility, any of those physicians may act as
15 the attending physician under this Act.

16 "Close friend" means any person 18 years of age or older
17 who has exhibited special care and concern for the patient and
18 who presents an affidavit to the attending physician stating
19 that he or she (i) is a close friend of the patient, (ii) is
20 willing and able to become involved in the patient's health
21 care, and (iii) has maintained such regular contact with the
22 patient as to be familiar with the patient's activities,
23 health, and religious and moral beliefs. The affidavit must
24 also state facts and circumstances that demonstrate that
25 familiarity.

26 "Death" means when, according to accepted medical

1 standards, there is (i) an irreversible cessation of
2 circulatory and respiratory functions or (ii) an irreversible
3 cessation of all functions of the entire brain, including the
4 brain stem.

5 "Decisional capacity" means the ability to understand and
6 appreciate the nature and consequences of a decision regarding
7 medical treatment or forgoing life-sustaining treatment and
8 the ability to reach and communicate an informed decision in
9 the matter as determined by the attending physician.

10 "Forgo life-sustaining treatment" means to withhold,
11 withdraw, or terminate all or any portion of life-sustaining
12 treatment with knowledge that the patient's death is likely to
13 result.

14 "Guardian" means a court appointed guardian of the person
15 who serves as a representative of a minor or as a
16 representative of a person under legal disability.

17 "Health care facility" means a type of health care
18 provider commonly known by a wide variety of titles, including
19 but not limited to, hospitals, medical centers, nursing homes,
20 rehabilitation centers, long term or tertiary care facilities,
21 and other facilities established to administer health care and
22 provide overnight stays in their ordinary course of business
23 or practice.

24 "Health care provider" means a person that is licensed,
25 certified, or otherwise authorized or permitted by the law of
26 this State or licensed in the state where the patient is being

1 treated to administer health care in the ordinary course of
2 business or practice of a profession, including, but not
3 limited to, physicians, nurses, health care facilities, and
4 any employee, officer, director, agent, or person under
5 contract with such a person.

6 "Imminent" (as in "death is imminent") means a
7 determination made by the attending physician according to
8 accepted medical standards that death will occur in a
9 relatively short period of time, even if life-sustaining
10 treatment is initiated or continued.

11 "Life-sustaining treatment" means any medical treatment,
12 procedure, or intervention that, in the judgment of the
13 attending physician, when applied to a patient with a
14 qualifying condition, would not be effective to remove the
15 qualifying condition or would serve only to prolong the dying
16 process. Those procedures can include, but are not limited to,
17 assisted ventilation, renal dialysis, surgical procedures,
18 blood transfusions, and the administration of drugs,
19 antibiotics, and artificial nutrition and hydration.

20 "Minor" means an individual who is not an adult as defined
21 in this Act.

22 "Parent" means a person who is the natural or adoptive
23 mother or father of the child and whose parental rights have
24 not been terminated by a court of law.

25 "Patient" means an adult or minor individual, unless
26 otherwise specified, under the care or treatment of a licensed

1 physician or other health care provider.

2 "Person" means an individual, a corporation, a business
3 trust, a trust, a partnership, an association, a government, a
4 governmental subdivision or agency, or any other legal entity.

5 "Qualifying condition" means the existence of one or more
6 of the following conditions in a patient certified in writing
7 in the patient's medical record by the attending physician and
8 by at least one other qualified physician:

9 (1) "Terminal condition" means an illness or injury
10 for which there is no reasonable prospect of cure or
11 recovery, death is imminent, and the application of
12 life-sustaining treatment would only prolong the dying
13 process.

14 (2) "Permanent unconsciousness" means a condition
15 that, to a high degree of medical certainty, (i) will last
16 permanently, without improvement, (ii) in which thought,
17 sensation, purposeful action, social interaction, and
18 awareness of self and environment are absent, and (iii)
19 for which initiating or continuing life-sustaining
20 treatment, in light of the patient's medical condition,
21 provides only minimal medical benefit.

22 (3) "Incurable or irreversible condition" means an
23 illness or injury (i) for which there is no reasonable
24 prospect of cure or recovery, (ii) that ultimately will
25 cause the patient's death even if life-sustaining
26 treatment is initiated or continued, (iii) that imposes

1 severe pain or otherwise imposes an inhumane burden on the
2 patient, and (iv) for which initiating or continuing
3 life-sustaining treatment, in light of the patient's
4 medical condition, provides only minimal medical benefit.

5 The determination that a patient has a qualifying
6 condition creates no presumption regarding the application or
7 non-application of life-sustaining treatment. It is only after
8 a determination by the attending physician that the patient
9 has a qualifying condition that the surrogate decision maker
10 may consider whether or not to forgo life-sustaining
11 treatment. In making this decision, the surrogate shall weigh
12 the burdens on the patient of initiating or continuing
13 life-sustaining treatment against the benefits of that
14 treatment.

15 "Qualified physician" means a physician licensed to
16 practice medicine in all of its branches in Illinois or a
17 physician licensed in the state where the patient is being
18 treated who has personally examined the patient.

19 "Surrogate decision maker" means an adult individual or
20 individuals who (i) have decisional capacity, (ii) are
21 available upon reasonable inquiry, (iii) are willing to make
22 medical treatment decisions on behalf of a patient who lacks
23 decisional capacity, and (iv) are identified by the attending
24 physician in accordance with the provisions of this Act as the
25 person or persons who are to make those decisions in
26 accordance with the provisions of this Act.

1 (Source: P.A. 95-331, eff. 8-21-07.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".