

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

(Text of Section from P.A. 102-140)

Sec. 10. Definitions.

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

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

"Available" means that a person is not "unavailable". A person is unavailable if (i) the person's existence is not known, (ii) the person has not been able to be contacted by telephone or mail, or (iii) the person lacks decisional capacity, refuses to accept the office of surrogate, or is

unwilling to respond in a manner that indicates a choice among the treatment matters at issue.

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

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

"Death" means when, according to accepted medical standards, there is (i) an irreversible cessation of circulatory and respiratory functions or (ii) an irreversible cessation of all functions of the entire brain, including the brain stem.

"Decisional capacity" means the ability to understand and appreciate the nature and consequences of a decision regarding

medical treatment or forgoing life-sustaining treatment and the ability to reach and communicate an informed decision in the matter as determined by the attending physician.

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

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

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

"Health care provider" means a person that is licensed, certified, or otherwise authorized or permitted by the law of this State or licensed in the state where the patient is being treated to administer health care in the ordinary course of business or practice of a profession, including, but not limited to, physicians, nurses, health care facilities, and any employee, officer, director, agent, or person under contract with such a person.

"Imminent" (as in "death is imminent") means a

determination made by the attending physician according to accepted medical standards that death will occur in a relatively short period of time, even if life-sustaining treatment is initiated or continued.

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

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

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

"Patient" means an adult or minor individual, unless otherwise specified, under the care or treatment of a licensed physician or other health care provider.

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

"Qualifying condition" means the existence of one or more of the following conditions in a patient certified in writing

in the patient's medical record by the attending physician and by at least one other qualified health care practitioner:

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

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

(3) "Incurable or irreversible condition" means an illness or injury (i) for which there is no reasonable prospect of cure or recovery, (ii) that ultimately will cause the patient's death even if life-sustaining treatment is initiated or continued, (iii) that imposes severe pain or otherwise imposes an inhumane burden on the patient, and (iv) for which initiating or continuing life-sustaining treatment, in light of the patient's medical condition, provides only minimal medical benefit.

The determination that a patient has a qualifying condition creates no presumption regarding the application or

non-application of life-sustaining treatment. It is only after a determination by the attending physician that the patient has a qualifying condition that the surrogate decision maker may consider whether or not to forgo life-sustaining treatment. In making this decision, the surrogate shall weigh the burdens on the patient of initiating or continuing life-sustaining treatment against the benefits of that treatment.

"Qualified health care practitioner" means an individual who has personally examined the patient and who is licensed in an Illinois or in the state where the patient is being treated and who is a licensed physician, advanced practice registered nurse, physician assistant, or resident with at least one year of graduate or specialty training ~~in this State~~ who holds a an Illinois temporary license to practice medicine and is enrolled in a residency program accredited by the Liaison Committee on Graduate Medical Education or the Bureau of Professional Education of the American Osteopathic Association.

"Physician" means a physician licensed to practice medicine in all its branches in this State or in the state where the patient is being treated.

"Surrogate decision maker" means an adult individual or individuals who (i) have decisional capacity, (ii) are available upon reasonable inquiry, (iii) are willing to make medical treatment decisions on behalf of a patient who lacks

decisional capacity, and (iv) are identified by the attending physician in accordance with the provisions of this Act as the person or persons who are to make those decisions in accordance with the provisions of this Act.

(Source: P.A. 102-140, eff. 1-1-22.)

(Text of Section from P.A. 102-182)

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assigned to the patient who has primary responsibility for treatment and care of the patient and who is a licensed physician in Illinois or a physician licensed in the state where the patient is being treated. If more than one physician shares that responsibility, any of those physicians may act as the attending physician under this Act.

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"Health care provider" means a person that is licensed, certified, or otherwise authorized or permitted by the law of this State or licensed in the state where the patient is being treated to administer health care in the ordinary course of business or practice of a profession, including, but not limited to, physicians, nurses, health care facilities, and any employee, officer, director, agent, or person under contract with such a person.

"Imminent" (as in "death is imminent") means a determination made by the attending physician according to accepted medical standards that death will occur in a relatively short period of time, even if life-sustaining

treatment is initiated or continued.

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

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"Patient" means an adult or minor individual, unless otherwise specified, under the care or treatment of a licensed physician or other health care provider.

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(3) "Incurable or irreversible condition" means an illness or injury (i) for which there is no reasonable prospect of cure or recovery, (ii) that ultimately will cause the patient's death even if life-sustaining treatment is initiated or continued, (iii) that imposes severe pain or otherwise imposes an inhumane burden on the patient, and (iv) for which initiating or continuing life-sustaining treatment, in light of the patient's medical condition, provides only minimal medical benefit.

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has a qualifying condition that the surrogate decision maker may consider whether or not to forgo life-sustaining treatment. In making this decision, the surrogate shall weigh the burdens on the patient of initiating or continuing life-sustaining treatment against the benefits of that treatment.

"Qualified health care practitioner" means an individual who has personally examined the patient and who is licensed in Illinois or in the state where the patient is being treated and who is a physician, advanced practice registered nurse, physician assistant, or resident with at least one year of graduate or specialty training who holds a temporary license to practice medicine and is enrolled in a residency program accredited by the Liaison Committee on Graduate Medical Education or the Bureau of Professional Education of the American Osteopathic Association.

"Physician" means a physician licensed to practice medicine in all its branches in this State or in the state where the patient is being treated.

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

"Surrogate decision maker" means an adult individual or individuals who (i) have decisional capacity, (ii) are available upon reasonable inquiry, (iii) are willing to make

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medical treatment decisions on behalf of a patient who lacks decisional capacity, and (iv) are identified by the attending physician in accordance with the provisions of this Act as the person or persons who are to make those decisions in accordance with the provisions of this Act.

(Source: P.A. 102-182, eff. 7-30-21.)

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