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Legislative Document

No. 1065

H.P. 758

House of Representatives, March 19, 2013

An Act Regarding Patient-directed Care at the End of Life

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BROOKS of Winterport.
Cosponsored by Senator VALENTINO of York and
Representatives: BEAVERS of South Berwick, CHENETTE of Saco, FARNSWORTH of
Portland, HAYES of Buckfield, NADEAU of Winslow, RUSSELL of Portland, SCHNECK of
Bangor, WELSH of Rockport.

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

2 **Sec. 1. 24 MRSA §2908** is enacted to read:

3 **§2908. Patient-directed care at the end of life**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "End-of-life care document" means a document signed by a patient that meets the
7 requirements of subsection 3.

8 B. "Medical director" means a licensed physician who oversees the medical
9 components of hospice services and serves on the interdisciplinary team, as defined
10 in Title 22, section 8621, subsection 12, for the patient.

11 C. "Palliative care" means care that eases or relieves pain or discomfort.

12 D. "Patient" means a person who is terminally ill and has a limited life expectancy in
13 the opinion of the person's physician.

14 E. "Physician" means the physician or medical director as defined in this subsection
15 who provides care for the patient and who signs a physician document with regard to
16 the patient.

17 F. "Physician document" means a document signed by a physician that meets the
18 requirements of subsection 4.

19 **2. Agreement.** A patient and physician may enter into an agreement for patient-
20 directed end-of-life care by signing an end-of-life care document in accordance with
21 subsection 3 and a physician document in accordance with subsection 4.

22 **3. Choice and directive by patient.** A patient may make choices for health care and
23 direct care toward the end of the patient's life in accordance with this section.

24 A. The patient may sign an end-of-life care document that states that the patient has
25 thoroughly discussed the patient's medical condition and options and choices for care
26 with the patient's physician and that the patient has made the following informed
27 decisions:

28 (1) The decision to reject curative or life-extending care;

29 (2) The decision to accept palliative care; and

30 (3) The decision to accept care that is ordered or delivered by the physician that
31 may hasten or bring about the patient's death.

32 B. The end-of-life care document must state that the patient is directing the physician
33 to provide care in conformance with the end-of-life care document and the
34 companion physician document and in conformance with the professional and legal
35 obligations of the physician.

36 **4. Commitment by physician.** A physician who signs a physician document in
37 accordance with this subsection may provide care in conformance with the physician

1 document for a patient who has signed an end-of-life care document in accordance with
2 subsection 3.

3 A. The physician may sign a physician document that states that the physician has
4 thoroughly discussed the patient's medical condition and options and choices for care
5 with the patient and that the patient has made the following informed decisions:

6 (1) The decision to reject curative or life-extending care;

7 (2) The decision to accept palliative care; and

8 (3) The decision to accept care that is ordered or delivered by the physician that
9 may hasten or bring about the patient's death.

10 B. The physician document must state:

11 (1) That the patient has directed the physician to provide care in conformance
12 with the end-of-life care document and the professional and legal obligations of
13 the physician; and

14 (2) That the physician is committed to provide care as directed by the end-of-life
15 care document.

16 **5. Immunity.** A physician who has signed a physician document in accordance with
17 subsection 4 with regard to a patient who has signed a companion end-of-life care
18 document in accordance with subsection 3 and who provides care in accordance with
19 both documents is not civilly or criminally liable for damages alleged to have been
20 sustained by the patient nor for the death of the patient alleged to have occurred by reason
21 of an act or omission in providing care in accordance with both documents.

22 **6. Professional and licensure obligations.** A physician who has signed a physician
23 document in accordance with subsection 4 with regard to a patient who has signed a
24 companion end-of-life care document in accordance with subsection 3 and who provides
25 care in accordance with both documents is not subject to professional discipline under
26 Title 32, chapters 36 and 48 for providing care to the patient in accordance with both
27 documents.

28 SUMMARY

29 This bill authorizes a patient who is terminally ill and the patient's physician or the
30 medical director of the patient's hospice care provider to sign companion documents that
31 will guide the provision of health care to the patient and the provision of care at the end
32 of life. The companion documents establish the choices and directives of the patient and
33 the responsibilities of the physician or medical director. This bill shields physicians and
34 medical directors from liability or disciplinary sanctions so that the physicians and
35 medical directors may provide care in conformance with patients' choices and directives.