



General Assembly

February Session, 2008

Raised Bill No. 669

LCO No. 3064

03064_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING LIVING WILLS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-570 of the 2008 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2008*):

4 For purposes of this section and sections 19a-571 to 19a-580c,
5 inclusive, as amended by this act:

6 (1) "Advance health care directive" or "advance directive" means a
7 writing executed in accordance with the provisions of this chapter,
8 including, but not limited to, a living will, or an appointment of health
9 care representative, or both;

10 (2) "Appointment of health care representative" means a document
11 executed in accordance with section 19a-575a of the 2008 supplement
12 to the general statutes or 19a-577 of the 2008 supplement to the general
13 statutes that appoints a health care representative to make health care
14 decisions for the declarant in the event the declarant becomes
15 incapacitated;

16 (3) "Attending physician" means the physician selected by, or
17 assigned to, the patient, who has primary responsibility for the
18 treatment and care of the patient;

19 (4) "Beneficial medical treatment" includes the use of medically
20 appropriate treatment, including surgery, treatment, medication and
21 the utilization of artificial technology to sustain life;

22 (5) "Health care representative" means the individual appointed by
23 a declarant pursuant to an appointment of health care representative
24 for the purpose of making health care decisions on behalf of the
25 declarant;

26 (6) "Incapacitated" means being unable to understand and
27 appreciate the nature and consequences of health care decisions,
28 including the benefits and disadvantages of such treatment, and to
29 reach and communicate an informed decision regarding the treatment;

30 (7) "Life support system" means any medical procedure or
31 intervention which, when applied to an individual, would serve only
32 to postpone the moment of death or maintain the individual in a state
33 of permanent unconsciousness, including, but not limited to,
34 mechanical or electronic devices, including artificial means of
35 providing nutrition or hydration;

36 (8) "Living will" means a written statement in compliance with
37 section 19a-575a of the 2008 supplement to the general statutes,
38 containing a declarant's wishes concerning any aspect of his or her
39 health care, including the withholding or withdrawal of life support
40 systems;

41 (9) "Next of kin" means any member of the following classes of
42 persons, in the order of priority listed: (A) The spouse of the patient;
43 (B) an adult son or daughter of the patient; (C) either parent of the
44 patient; (D) an adult brother or sister of the patient; and (E) a
45 grandparent of the patient;

46 (10) "Permanently unconscious" means an irreversible condition in
47 which the individual is at no time aware of himself or herself or the
48 environment and shows no behavioral response to the environment
49 and includes permanent coma and persistent vegetative state;

50 (11) "Terminal condition" means the final stage of an incurable or
51 irreversible medical condition which, without the administration of a
52 life support system, will result in death within a relatively short time
53 period, in the opinion of the attending physician;

54 (12) "Critical illness" means a severe medical condition in which the
55 withholding or withdrawal of life support systems is likely to result in
56 death in a relatively short time period, in the opinion of the attending
57 physician.

58 Sec. 2. Section 19a-571 of the general statutes is repealed and the
59 following is substituted in lieu thereof (*Effective October 1, 2008*):

60 (a) (1) Subject to the provisions of subsection (c) of this section, any
61 physician licensed under chapter 370 or any licensed medical facility
62 who or which withholds, removes or causes the removal of a life
63 support system of an incapacitated patient shall not be liable for
64 damages in any civil action or subject to prosecution in any criminal
65 proceeding for such withholding or removal, provided [(1)] (A) the
66 decision to withhold or remove such life support system is based on
67 the best medical judgment of the attending physician in accordance
68 with the usual and customary standards of medical practice; [(2) the
69 attending physician deems the patient to be in a terminal condition or,
70 in consultation with a physician qualified to make a neurological
71 diagnosis who has examined the patient, deems the patient to be
72 permanently unconscious; and (3)] (B) the attending physician has
73 considered the patient's wishes concerning the withholding or
74 withdrawal of life support systems in accordance with subdivision (2)
75 of this subsection; and (C) one of the following conditions applies:

76 (i) The attending physician and at least one additional licensed

77 physician have each examined the patient and deem the patient to be
78 in a terminal condition;

79 (ii) The attending physician and at least one additional licensed
80 physician qualified to make a neurological diagnosis have each
81 examined the patient and deem the patient to be permanently
82 unconscious;

83 (iii) The attending physician and at least one additional licensed
84 physician qualified to make a neurological diagnosis have each
85 examined the patient and deem that the patient will be permanently
86 incapacitated; or

87 (iv) The attending physician and at least one additional licensed
88 physician qualified to diagnose a critical illness have each examined
89 the patient and deem the patient to have a critical illness.

90 (2) In the determination of the wishes of the patient, the attending
91 physician shall consider the wishes as expressed by a document
92 executed in accordance with [sections] section 19a-575 [and] or 19a-
93 575a of the 2008 supplement to the general statutes, if any such
94 document is presented to, or in the possession of, the attending
95 physician at the time the decision to withhold or terminate a life
96 support system is made. If the wishes of the patient have not been
97 expressed in [a] such document or any other living will, the attending
98 physician shall determine the wishes of the patient by consulting any
99 statement made by the patient directly to the attending physician and,
100 if available, the patient's health care representative, the patient's next
101 of kin, the patient's legal guardian or conservator, if any, any person
102 designated by the patient in accordance with section 1-56r and any
103 other person to whom the patient has communicated his wishes, if the
104 attending physician has knowledge of such person. All persons acting
105 on behalf of the patient shall act in good faith. If the attending
106 physician does not deem the incapacitated patient to be in a terminal
107 condition, [or] permanently unconscious, permanently incapacitated or
108 having a critical illness, beneficial medical treatment including

109 nutrition and hydration must be provided to the incapacitated patient.

110 (b) A physician qualified to make a neurological diagnosis who is
111 consulted by the attending physician pursuant to subdivision [(2)] (1)
112 of subsection (a) of this section shall not be liable for damages or
113 subject to criminal prosecution for any determination made in
114 accordance with the usual and customary standards of medical
115 practice.

116 (c) In the case of an infant, as defined in 45 CFR 1340.15 (b), the
117 physician or licensed medical facility shall comply with the provisions
118 of 45 CFR 1340.15 (b)(2) in addition to the provisions of subsection (a)
119 of this section.

120 Sec. 3. Section 19a-575 of the general statutes is repealed and the
121 following is substituted in lieu thereof (*Effective October 1, 2008*):

122 Any person eighteen years of age or older may execute a document
123 that contains directions as to any aspect of health care, including the
124 withholding or withdrawal of life support systems. Such document
125 shall be signed and dated by the maker with at least two witnesses and
126 may be in substantially the following form:

127 DOCUMENT CONCERNING HEALTH CARE AND
128 WITHHOLDING OR WITHDRAWAL OF LIFE SUPPORT SYSTEMS.

129 If the time comes when I am incapacitated to the point when I can
130 no longer actively take part in decisions for my own life, and am
131 unable to direct my physician as to my own medical care, I wish this
132 statement to stand as a testament of my wishes.

133 "I, ... (Name), request that, if my condition is deemed terminal or if
134 it is determined that I will be permanently unconscious, I be allowed to
135 die and not be kept alive through life support systems. By terminal
136 condition, I mean that I have an incurable or irreversible medical
137 condition which, without the administration of life support systems,

138 will, in the opinion of my attending physician, result in death within a
139 relatively short time. By permanently unconscious I mean that I am in
140 a permanent coma or persistent vegetative state which is an
141 irreversible condition in which I am at no time aware of myself or the
142 environment and show no behavioral response to the environment.
143 The life support systems which I do not want include, but are not
144 limited to:

- 145 Artificial respiration (which may require use of a breathing machine
- 146 and insertion of a breathing tube)
- 147 Cardiopulmonary resuscitation
- 148 Artificial means of providing nutrition and hydration

149 (Cross out and initial the life support systems above that you want
150 administered)

151 I do not intend any direct taking of my life, but only that my dying
152 not be unreasonably prolonged."

153 Optional request: If at least two licensed physicians, including at
154 least one board certified neurologist or geriatrician, deem that I will be
155 permanently incapacitated and therefore lack the capacity to make
156 decisions about my treatment, the life support systems which I do
157 NOT want, under any circumstances, are

- 158 Artificial respiration (which may require use of a breathing machine
- 159 and insertion of a breathing tube)
- 160 Cardiopulmonary resuscitation
- 161 Artificial means of providing nutrition and hydration
- 162 Hospitalization in an acute care hospital
- 163 Artificial means of providing nutrition and hydration

164 (Cross out and initial the life support systems above that you want
165 administered)

166 Optional request: If I develop acute loss of the capacity to make

167 decisions about my treatment during a critical illness so severe that
168 requires the use of artificial means to keep me alive, then:

169 Provide all medical treatments available until physicians deem that
170 there is no hope of survival or my appointed representative, or next of
171 kin in the absence of an appointed representative, concludes with
172 physicians that medical treatments are only likely to prolong my death
173 without me regaining capacity, after which remove all medical
174 treatments except those for comfort

175 Provide all medical treatments available, EXCEPT cardiopulmonary
176 resuscitation, for up to ____ days (select number of days), after which
177 time if I am not improving and still lack capacity, remove all medical
178 treatments except those for comfort

179 Provide all medical treatments available, including
180 cardiopulmonary resuscitation, for up to ____ days (select number of
181 days), after which time if I am not improving and still lack capacity,
182 remove all medical treatments except those for comfort

183 Withhold all medical treatments except those for comfort

184 Remove all medical treatments except those for comfort

185 (Cross out and initial the medical treatments above that you do not
186 want administered)

187 Other specific requests:

188 "This request is made, after careful reflection, while I am of sound
189 mind."

190 (Signature)

191 (Date)

192 This document was signed in our presence, by the above-named
193 (Name) who appeared to be eighteen years of age or older, of sound

194 mind and able to understand the nature and consequences of health
195 care decisions at the time the document was signed.

T1 (Witness) (If a health care representative has been appointed
for you, you are encouraged to confirm that the
health care representative understands your wishes
as set forth in this document)

T2 (Address)

T3 (Witness) (You are encouraged to discuss risks, benefits and
alternatives with your physician and you are
encouraged to request that your physician sign this
document to confirm your physician's understanding
of your wishes as set forth in this document)

T4 (Address)

196 Sec. 4. Section 19a-575a of the 2008 supplement to the general
197 statutes is repealed and the following is substituted in lieu thereof
198 (*Effective October 1, 2008*):

199 (a) Any person eighteen years of age or older may execute a
200 document that contains health care instructions, the appointment of a
201 health care representative, the designation of a conservator of the
202 person for future incapacity and a document of anatomical gift. Any
203 such document shall be signed and dated by the maker with at least
204 two witnesses and may be in the substantially following form:

205 THESE ARE MY HEALTH CARE INSTRUCTIONS.
206 MY APPOINTMENT OF A HEALTH CARE REPRESENTATIVE,
207 THE DESIGNATION OF MY CONSERVATOR OF THE PERSON
208 FOR MY FUTURE INCAPACITY
209 AND
210 MY DOCUMENT OF ANATOMICAL GIFT

211 To any physician who is treating me: These are my health care
212 instructions including those concerning the withholding or withdrawal
213 of life support systems, together with the appointment of my health
214 care representative, the designation of my conservator of the person

215 for future incapacity and my document of anatomical gift. As my
216 physician, you may rely on these health care instructions and any
217 decision made by my health care representative or conservator of my
218 person, if I am incapacitated to the point when I can no longer actively
219 take part in decisions for my own life, and am unable to direct my
220 physician as to my own medical care.

221 (You may choose one or more of the options below):

222 Option: I, ..., the author of this document, request that, if my
223 condition is deemed terminal or if I am determined to be permanently
224 unconscious, I be allowed to die and not be kept alive through life
225 support systems. By terminal condition, I mean that I have an
226 incurable or irreversible medical condition which, without the
227 administration of life support systems, will, in the opinion of my
228 attending physician, result in death within a relatively short time. By
229 permanently unconscious I mean that I am in a permanent coma or
230 persistent vegetative state which is an irreversible condition in which I
231 am at no time aware of myself or the environment and show no
232 behavioral response to the environment. The life support systems
233 which I do not want include, but are not limited to: Artificial
234 respiration, cardiopulmonary resuscitation and artificial means of
235 providing nutrition and hydration. (Optional clause: I do not want to
236 be transferred to an acute care hospital). I do want sufficient pain
237 medication to maintain my physical comfort. I do not intend any direct
238 taking of my life, but only that my dying not be unreasonably
239 prolonged.

240 Option: I, ..., the author of this document, request that, if my
241 condition is deemed permanently incapacitated, I be allowed to die
242 and not be kept alive through life support systems. By permanently
243 incapacitated, I mean that in the opinion of my attending physician
244 and at least one other physician, I have an incurable or irreversible
245 neurological condition in which I cannot communicate my wishes. The
246 life support systems which I do not want include, but are not limited

247 to: Artificial respiration, cardiopulmonary resuscitation and artificial
248 means of providing nutrition and hydration. (Optional clause: I do not
249 want to be transferred to an acute care hospital). I do want sufficient
250 pain medication to maintain my physical comfort. I do not intend any
251 direct taking of my life, but only that my dying not be unreasonably
252 prolonged.

253 Option: I, ..., the author of this document, request that, if I develop
254 acute loss of the capacity to make decisions about my treatment during
255 a critical illness so severe that it requires use of artificial means to keep
256 me alive, then:

257 Provide all medical treatments available until physicians deem that
258 there is no hope of survival or my appointed health care
259 representative, or next of kin in the absence of an appointed health
260 care representative, concludes with physicians that medical treatments
261 are only likely to prolong my death without me regaining capacity,
262 after which remove all medical treatments except those for comfort

263 Provide all medical treatments available, EXCEPT cardiopulmonary
264 resuscitation, for up to ____ days (select number of days), after which
265 time if I am not improving and still lack capacity, remove all medical
266 treatments except those for comfort

267 Provide all medical treatments available, including
268 cardiopulmonary resuscitation, for up to ____ days (select number of
269 days), after which time if I am not improving and still lack capacity,
270 remove all medical treatments except those for comfort

271 Withhold all medical treatments except those for comfort

272 Remove all medical treatments except those for comfort

273 (Cross out and initial the medical treatments above that you do not
274 want administered)

275 I appoint to be my health care representative. If my attending

276 physician determines that I am unable to understand and appreciate
277 the nature and consequences of health care decisions and unable to
278 reach and communicate an informed decision regarding treatment, my
279 health care representative is authorized to make any and all health care
280 decisions for me, including (1) the decision to accept or refuse any
281 treatment, service or procedure used to diagnose or treat my physical
282 or mental condition, except as otherwise provided by law such as for
283 psychosurgery or shock therapy, as defined in section 17a-540, and (2)
284 the decision to provide, withhold or withdraw life support systems. I
285 direct my health care representative to make decisions on my behalf in
286 accordance with my wishes, as stated in this document or as otherwise
287 known to my health care representative. In the event my wishes are
288 not clear or a situation arises that I did not anticipate, my health care
289 representative may make a decision in my best interests, based upon
290 what is known of my wishes.

291 If is unwilling or unable to serve as my health care
292 representative, I appoint to be my alternative health care
293 representative.

294 If a conservator of my person should need to be appointed, I
295 designate be appointed my conservator. If is unwilling or unable
296 to serve as my conservator, I designate

297 No bond shall be required
of either of them in any jurisdiction.

298 I hereby make this anatomical gift, if medically acceptable, to take
299 effect upon my death.

300 I give: (check one)

T5 (1) any needed organs or parts

T6 (2) only the following organs or parts

301 to be donated for: (check one)

T7 (1) any of the purposes stated in subsection (a) of section 19a-279f of
the general statutes

T8 (2) these limited purposes

302 These requests, appointments, and designations are made after
303 careful reflection, while I am of sound mind. Any party receiving a
304 duly executed copy or facsimile of this document may rely upon it
305 unless such party has received actual notice of my revocation of it.

T9 Date, 20..

T10 L.S.

306 This document was signed in our presence by the author of this
307 document, who appeared to be eighteen years of age or older, of sound
308 mind and able to understand the nature and consequences of health
309 care decisions at the time this document was signed. The author
310 appeared to be under no improper influence. We have subscribed this
311 document in the author's presence and at the author's request and in
312 the presence of each other.

T11

T12 (Witness) (Witness)

T13

T14 (Number and Street) (Number and Street)

T15

T16 (City, State and Zip Code) (City, State and Zip Code)

T17 STATE OF CONNECTICUT
T18 }
T19 } ss.
T20 COUNTY OF

313 We, the subscribing witnesses, being duly sworn, say that we
314 witnessed the execution of these health care instructions, the
315 appointments of a health care representative, the designation of a
316 conservator for future incapacity and a document of anatomical gift by

317 the author of this document; that the author subscribed, published and
318 declared the same to be the author's instructions, appointments and
319 designation in our presence; that we thereafter subscribed the
320 document as witnesses in the author's presence, at the author's request,
321 and in the presence of each other; that at the time of the execution of
322 said document the author appeared to us to be eighteen years of age or
323 older, of sound mind, able to understand the nature and consequences
324 of said document, and under no improper influence, and we make this
325 affidavit at the author's request this day of 20...

T21
T22 (Witness) (Witness)

326 Subscribed and sworn to before me this day of 20..

T23
T24 Commissioner of the Superior Court
T25 Notary Public
T26 My commission expires:

327 (Print or type name of all persons signing under all signatures)

328 If a health care representative has been appointed for you, you are
329 encouraged to confirm that the health care representative understands
330 your wishes as set forth in this document

331 You are encouraged to discuss risks, benefits and alternatives with
332 your physician and you are encouraged to request that your physician
333 sign this document to confirm your physician's understanding of your
334 wishes as set forth in this document

335 (b) Except as provided in section 19a-579b, an appointment of health
336 care representative may only be revoked by the declarant, in writing,
337 and the writing shall be signed by the declarant and two witnesses.

338 (c) The attending physician or other health care provider shall make

339 the revocation of an appointment of health care representative a part of
340 the declarant's medical record.

341 (d) In the absence of knowledge of the revocation of an appointment
342 of health care representative, a person who carries out an advance
343 directive pursuant to the provisions of this chapter shall not be subject
344 to civil or criminal liability or discipline for unprofessional conduct for
345 carrying out such advance directive.

346 (e) The revocation of an appointment of health care representative
347 does not, of itself, revoke the living will of the declarant.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	19a-570
Sec. 2	<i>October 1, 2008</i>	19a-571
Sec. 3	<i>October 1, 2008</i>	19a-575
Sec. 4	<i>October 1, 2008</i>	19a-575a

Statement of Purpose:

To revise provisions regarding living wills and other advance health care directives.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]