



House of Representatives

General Assembly

File No. 413

February Session, 2018

House Bill No. 5148

House of Representatives, April 11, 2018

The Committee on Public Health reported through REP. STEINBERG of the 136th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING PREGNANT PATIENTS EXERCISING LIVING WILLS.

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

1 Section 1. Section 19a-575 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

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

8 DOCUMENT CONCERNING HEALTH CARE
9 AND WITHHOLDING OR WITHDRAWAL OF LIFE SUPPORT
10 SYSTEMS.

11 If the time comes when I am incapacitated to the point when I can
12 no longer actively take part in decisions for my own life, and am

13 unable to direct my physician as to my own medical care, I wish this
14 statement to stand as a testament of my wishes.

15 "I, (Name), request that, if my condition is deemed terminal or if
16 it is determined that I will be permanently unconscious, I be allowed to
17 die and not be kept alive through life support systems. By terminal
18 condition, I mean that I have an incurable or irreversible medical
19 condition which, without the administration of life support systems,
20 will, in the opinion of my attending physician, result in death within a
21 relatively short time. By permanently unconscious I mean that I am in
22 a permanent coma or persistent vegetative state which is an
23 irreversible condition in which I am at no time aware of myself or the
24 environment and show no behavioral response to the environment.
25 The life support systems which I do not want include, but are not
26 limited to:

- T1 Artificial respiration
- T2 Cardiopulmonary resuscitation
- T3 Artificial means of providing nutrition and hydration

27 (Cross out and initial life support systems you want administered)

28 I do not intend any direct taking of my life, but only that my dying
29 not be unreasonably prolonged. ["]

30 If I am pregnant:

31 (Place a check to indicate option (1) or (2) or specify alternative
32 instructions after (3))

T4 (1) I intend to accept life support systems if my doctor believes
T5 that doing so would allow my fetus to reach a live birth.

T6 (2) I intend this document to apply without modifications.

T7 (3) I intend this document to apply as follows:

33 Other specific requests:

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

T8 (Signature)

T9 (Date)

36 This document was signed in our presence, by the above-named
37 (Name) who appeared to be eighteen years of age or older, of sound
38 mind and able to understand the nature and consequences of health
39 care decisions at the time the document was signed.

T10 (Witness)

T11 (Address)

T12 (Witness)

T13 (Address)

40 Sec. 2. Section 19a-575a of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective from passage*):

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

48 THESE ARE MY HEALTH CARE INSTRUCTIONS.
49 MY APPOINTMENT OF A HEALTH CARE REPRESENTATIVE,
50 THE DESIGNATION OF MY CONSERVATOR OF THE PERSON
51 FOR MY FUTURE INCAPACITY
52 AND
53 MY DOCUMENT OF ANATOMICAL GIFT

54 To any physician who is treating me: These are my health care
55 instructions including those concerning the withholding or withdrawal
56 of life support systems, together with the appointment of my health
57 care representative, the designation of my conservator of the person
58 for future incapacity and my document of anatomical gift. As my

59 physician, you may rely on these health care instructions and any
60 decision made by my health care representative or conservator of my
61 person, if I am incapacitated to the point when I can no longer actively
62 take part in decisions for my own life, and am unable to direct my
63 physician as to my own medical care.

64 I, ..., the author of this document, request that, if my condition is
65 deemed terminal or if I am determined to be permanently
66 unconscious, I be allowed to die and not be kept alive through life
67 support systems. By terminal condition, I mean that I have an
68 incurable or irreversible medical condition which, without the
69 administration of life support systems, will, in the opinion of my
70 attending physician, result in death within a relatively short time. By
71 permanently unconscious I mean that I am in a permanent coma or
72 persistent vegetative state which is an irreversible condition in which I
73 am at no time aware of myself or the environment and show no
74 behavioral response to the environment. The life support systems
75 which I do not want include, but are not limited to: Artificial
76 respiration, cardiopulmonary resuscitation and artificial means of
77 providing nutrition and hydration. I do want sufficient pain
78 medication to maintain my physical comfort. I do not intend any direct
79 taking of my life, but only that my dying not be unreasonably
80 prolonged.

81 If I am pregnant:

82 (Place a check to indicate option (1) or (2) or specify alternative
83 instructions after (3))

T14 (1) I intend to accept life support systems if my doctor believes
T15 that doing so would allow my fetus to reach a live birth.

T16 (2) I intend this document to apply without modifications.

T17 (3) I intend this document to apply as follows:

84 I appoint ... to be my health care representative. If my attending
85 physician determines that I am unable to understand and appreciate

86 the nature and consequences of health care decisions and unable to
 87 reach and communicate an informed decision regarding treatment, my
 88 health care representative is authorized to make any and all health care
 89 decisions for me, including (1) the decision to accept or refuse any
 90 treatment, service or procedure used to diagnose or treat my physical
 91 or mental condition, except as otherwise provided by law such as for
 92 psychosurgery or shock therapy, as defined in section 17a-540, and (2)
 93 the decision to provide, withhold or withdraw life support systems. I
 94 direct my health care representative to make decisions on my behalf in
 95 accordance with my wishes, as stated in this document or as otherwise
 96 known to my health care representative. In the event my wishes are
 97 not clear or a situation arises that I did not anticipate, my health care
 98 representative may make a decision in my best interests, based upon
 99 what is known of my wishes.

100 If is unwilling or unable to serve as my health care
 101 representative, I appoint to be my alternative health care
 102 representative.

103 If a conservator of my person should need to be appointed, I
 104 designate be appointed my conservator. If is unwilling or unable
 105 to serve as my conservator, I designate, I designate to be
 106 successor conservator. No bond shall be required of either of them in
 107 any jurisdiction.

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

110 I give: (check one)

T18 (1) any needed organs or parts

T19 (2) only the following organs or parts

111 to be donated for: (check one)

T20 (1) any of the purposes stated in subsection (a) of section 19a-289j

T21 (2) these limited purposes

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

T22 Date, 20..

T23 L.S.

116 This document was signed in our presence by the author of this
117 document, who appeared to be eighteen years of age or older, of sound
118 mind and able to understand the nature and consequences of health
119 care decisions at the time this document was signed. The author
120 appeared to be under no improper influence. We have subscribed this
121 document in the author's presence and at the author's request and in
122 the presence of each other.

T24

T25 (Witness) (Witness)

T26

T27 (Number and Street) (Number and Street)

T28

T29 (City, State and Zip Code) (City, State and Zip Code)

T30 STATE OF CONNECTICUT
T31 }
T32 } ss.
T33 COUNTY OF

123 We, the subscribing witnesses, being duly sworn, say that we
124 witnessed the execution of these health care instructions, the
125 appointments of a health care representative, the designation of a
126 conservator for future incapacity and a document of anatomical gift by
127 the author of this document; that the author subscribed, published and
128 declared the same to be the author's instructions, appointments and
129 designation in our presence; that we thereafter subscribed the
130 document as witnesses in the author's presence, at the author's request,

131 and in the presence of each other; that at the time of the execution of
132 said document the author appeared to us to be eighteen years of age or
133 older, of sound mind, able to understand the nature and consequences
134 of said document, and under no improper influence, and we make this
135 affidavit at the author's request this day of 20...

T34
T35 (Witness) (Witness)

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

T36
T37 Commissioner of the Superior Court
T38 Notary Public
T39 My commission expires:

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

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

141 (c) The attending physician or other health care provider shall make
142 the revocation of an appointment of health care representative a part of
143 the declarant's medical record.

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

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

151 Sec. 3. Subsection (a) of section 19a-573 of the general statutes is
152 repealed and the following is substituted in lieu thereof (*Effective from*
153 *passage*):

154 (a) Notwithstanding the provisions of sections 19a-571, 19a-572,
 155 [19a-574,] 19a-575, as amended by this act, 19a-575a, as amended by
 156 this act, 19a-577, 19a-580a and 19a-580b, comfort care and pain
 157 alleviation shall be provided in all cases.

158 Sec. 4. Section 19a-574 of the general statutes is repealed. (*Effective*
 159 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-575
Sec. 2	<i>from passage</i>	19a-575a
Sec. 3	<i>from passage</i>	19a-573(a)
Sec. 4	<i>from passage</i>	Repealer section

PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill is not anticipated to result in a fiscal impact to the state or municipalities as it is not anticipated to substantively change the utilization of services or supports provided by the state or municipalities.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**HB 5148*****AN ACT CONCERNING PREGNANT PATIENTS EXERCISING LIVING WILLS.*****SUMMARY**

This bill allows pregnant women age 18 or older to exercise living wills and other advance directives. Specifically, it repeals a statute that currently provides that specified laws on such matters and the removal of life support do not apply to pregnant patients. These laws:

1. allow adults to execute (a) health care instructions (living wills), including the withholding of life support, or (b) combined documents with health care instructions, appointment of a health care representative, designation of a conservator for future incapacity, and anatomical gift instructions;
2. establish conditions under which certain health care providers may not be held civilly or criminally liable for the removal of life support (see BACKGROUND); and
3. provide that such laws do not create a presumption about the wishes of a patient who has not executed such a document as described above.

Existing law (1) requires such documents to be signed and dated by the maker with at least two witnesses and (2) provides that the document may be substantially in the form set forth in the law. The bill adds language to the forms allowing a pregnant woman to indicate whether she:

1. intends to accept life support if her doctor believes that doing so would allow the fetus to reach a live birth;

2. intends the document to apply without modifications; or
3. intends the document to apply differently, as she sets forth in the document.

Existing law already allows pregnant women to exercise documents only appointing a health care representative (CGS §§ 19a-576 & 19a-577).

EFFECTIVE DATE: Upon passage

BACKGROUND

Immunity for Withholding of Life Support

By law, any licensed physician, advanced practice registered nurse (APRN), or medical facility that withholds or removes, or causes the removal of a life support system of an incapacitated patient is not liable for civil damages or subject to criminal prosecution if:

1. the decision is based on the best medical judgment of the attending physician or APRN (provider) in accordance with the usual and customary standards of medical practice;
2. the provider deems the patient to be in a terminal condition or, in consultation with a physician qualified to make a neurological diagnosis who has examined the patient, deems the patient to be permanently unconscious; and
3. the provider has considered the patient's wishes (including an advance directive presented to the provider).

The law also extends immunity to the consulting neurologist for determinations made in accordance with usual and customary medical standards (CGS § 19a-571).

Related Bill

HB 5163 (§§ 34-39), reported favorably by the Public Health Committee, incorporates APRNs into the laws on advance directives, authorizing them to perform certain functions which currently may be

performed only by a physician.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 26 Nay 0 (03/23/2018)