



PA 18-11—HB 5148

Public Health Committee

Judiciary Committee

AN ACT CONCERNING PREGNANT PATIENTS EXERCISING LIVING WILLS

SUMMARY: This act allows pregnant women age 18 or older to exercise living wills and other advance directives. Specifically, it repeals a statute that provided that specified laws on such matters and the removal of life support did 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 documents may be substantially in the form set forth in the law. The act adds language to the standard documents 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 age 18 or older 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, an incapacitated patient's life support system 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

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- 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 Act

PA 18-168 (§§ 34-39) incorporates APRNs into the laws on advance directives, authorizing them to perform certain functions which previously could be performed only by a physician.