

---

**By: Delegates Bissett and Hubbard**

Introduced and read first time: February 23, 1996

Assigned to: Environmental Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Living Wills - Suspension of Heart/Lung Devices After Transplant**

3 FOR the purpose of adding to certain living will and advance medical directive forms  
4 certain optional statements requesting that artificial heart/lung support devices be  
5 continued on behalf of a person in a certain condition who donates an organ or  
6 tissue to a patient only until organ or tissue suitability of the patient is confirmed  
7 and organ or tissue recovery has taken place; and generally relating to living wills  
8 and advance medical directive forms.

9 BY repealing and reenacting, with amendments,  
10 Article - Health - General  
11 Section 5-603  
12 Annotated Code of Maryland  
13 (1994 Replacement Volume and 1995 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Health - General**

17 5-603.

18 **Health Care Decision Making Forms**

19 The following forms allow you to make some decisions about future health care  
20 issues. Form I, called a "Living Will", allows you to make decisions about life-sustaining  
21 procedures if, in the future, your death from a terminal condition is imminent despite the  
22 application of life-sustaining procedures or you are in a persistent vegetative state. Form  
23 II, called an "Advance Directive", allows you to select a health care agent, give health  
24 care instructions, or both. If you use the advance directive, you can make decisions about  
25 life-sustaining procedures in the event of terminal condition, persistent vegetative state,  
26 or end-stage condition. You can also use the advance directive to make any other health  
27 care decisions.

28 These forms are intended to be guides. You can use one form or both, and you may  
29 complete all or only part of the forms that you use. Different forms may also be used.

2

1 Please note: if you decide to select a health care agent that person may not be a  
2 witness to your advance directive. Also, at least one of your witnesses may not be a person  
3 who may financially benefit by reason of your death.

4 Form I Living Will

5 (Optional Form)

6 If I am not able to make an informed decision regarding my health care, I direct my  
7 health care providers to follow my instructions as set forth below. (Initial those  
8 statements you wish to be included in the document and cross through those statements  
9 which do not apply.)

10 a. If my death from a terminal condition is imminent and even if life-sustaining  
11 procedures are used there is no reasonable expectation of my recovery -

12 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, including  
13 the administration of nutrition and hydration artificially.

14 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, except  
15 that, if I am unable to take food by mouth, I wish to receive nutrition and hydration  
16 artificially.

17 \_\_\_\_\_ I direct that, even in a terminal condition, I be given all available medical  
18 treatment in accordance with accepted health care standards.

19 \_\_\_\_\_ I DIRECT THAT IF I AM AT OR NEAR BRAIN DEATH, AN ANATOMICAL GIFT  
20 BE OFFERED ON MY BEHALF TO A PATIENT IN NEED OF AN ORGAN OR TISSUE  
21 TRANSPLANT. IF A TRANSPLANT OCCURS, I WANT ARTIFICIAL HEART/LUNG  
22 SUPPORT DEVICES TO BE CONTINUED ON MY BEHALF ONLY UNTIL ORGAN OR  
23 TISSUE SUITABILITY OF THE PATIENT IS CONFIRMED AND ORGAN OR TISSUE  
24 RECOVERY HAS TAKEN PLACE.

25 b. If I am in a persistent vegetative state, that is if I am not conscious and am not  
26 aware of my environment nor able to interact with others, and there is no reasonable  
27 expectation of my recovery within a medically appropriate period -

28 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, including  
29 the administration of nutrition and hydration artificially.

30 \_\_\_\_\_ I DIRECT THAT IF I AM AT OR NEAR BRAIN DEATH, AN ANATOMICAL GIFT  
31 BE OFFERED ON MY BEHALF TO A PATIENT IN NEED OF AN ORGAN OR TISSUE  
32 TRANSPLANT. IF A TRANSPLANT OCCURS, I WANT ARTIFICIAL HEART/LUNG  
33 SUPPORT DEVICES TO BE CONTINUED ON MY BEHALF ONLY UNTIL ORGAN OR  
34 TISSUE SUITABILITY OF THE PATIENT IS CONFIRMED AND ORGAN OR TISSUE  
35 RECOVERY HAS TAKEN PLACE.

36 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, except that  
37 if I am unable to take in food by mouth, I wish to receive nutrition and hydration  
38 artificially.

39 \_\_\_\_\_ I direct that I be given all available medical treatment in accordance with  
40 accepted health care standards.

3

1 c. If I am pregnant my agent shall follow these specific instructions:

2 \_\_\_\_\_

3 By signing below, I indicate that I am emotionally and mentally competent to make  
4 this living will and that I understand its purpose and effect.

5 \_\_\_\_\_

6 (Date) (Signature of Declarant)

7 The declarant signed or acknowledged signing this living will in my presence and  
8 based upon my personal observation the declarant appears to be a competent individual.

9 \_\_\_\_\_

10 (Witness) (Witness)

11 (Signature of two witnesses)

12 Form II

13 Advance Directive

14 Part A

15 Appointment of Health Care Agent

16 (Optional Form)

17 (Cross through if you do not want to appoint a health care agent to make health care  
18 decisions for you. If you do want to appoint an agent, cross through any items in the form  
19 that you do not want to apply.)

20 (1) I, \_\_\_\_\_, residing at \_\_\_\_\_

21 appoint the following individual as my agent to make health care decisions for me

22 \_\_\_\_\_

23 (Full Name, Address, and Telephone Number)

24 Optional: If this agent is unavailable or is unable or unwilling to act as my agent, then I

25 appoint the following person to act in this capacity

26 \_\_\_\_\_

27 (Full Name, Address, and Telephone Number)

28 (2) My agent has full power and authority to make health care decisions for me, including

4

1 the power to:

2 a. Request, receive, and review any information, oral or written, regarding my  
3 physical or mental health, including, but not limited to, medical and hospital records, and  
4 consent to disclosure of this information;

5 b. Employ and discharge my health care providers;

6 c. Authorize my admission to or discharge from (including transfer to another  
7 facility) any hospital, hospice, nursing home, adult home, or other medical care facility;  
8 and

9 d. Consent to the provision, withholding, or withdrawal of health care, including,  
10 in appropriate circumstances, life-sustaining procedures.

11 (3) The authority of my agent is subject to the following provisions and limitations:

12 \_\_\_\_\_

13 (4) My agent's authority becomes operative (initial the option that applies):

14 \_\_\_\_\_ When my attending physician and a second physician determine that I am  
15 incapable of making an informed decision regarding my health care; or

16 \_\_\_\_\_ When this document is signed.

17 (5) My agent is to make health care decisions for me based on the health care instructions  
18 I give in this document and on my wishes as otherwise known to my agent. If my wishes  
19 are unknown or unclear, my agent is to make health care decisions for me in accordance  
20 with my best interest, to be determined by my agent after considering the benefits,  
21 burdens, and risks that might result from a given treatment or course of treatment, or  
22 from the withholding or withdrawal of a treatment or course of treatment.

23 (6) My agent shall not be liable for the costs of care based solely on this authorization.

24 By signing below, I indicate that I am emotionally and mentally competent to make  
25 this appointment of a health care agent and that I understand its purpose and effect.

26 \_\_\_\_\_

27 (Date) (Signature of Declarant)

28 The declarant signed or acknowledged signing this appointment of a health care  
29 agent in my presence and based upon my personal observation appears to be a competent  
30 individual.

31 \_\_\_\_\_

32 (Witness) (Witness)

33 [TAG center](Signature of two witnesses)

5

1                   Part B  
2                   Advance Medical Directive  
3                   Health Care Instructions

4                   (Optional Form)

5 (Cross through if you do not want to complete this portion of the form.If you do want to  
6 complete this portion of the form, initial those statements you want to be included in the  
7 document and cross through those statements that do not apply.)

8 If I am incapable of making an informed decision regarding my health care, I direct my  
9 health care providers to follow my instructions as set forth below. (Initial all those that  
10 apply.)

11           (1) If my death from a terminal condition is imminent and even if life-sustaining  
12 procedures are used there is no reasonable expectation of my recovery -

13 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, including  
14 the administration of nutrition and hydration artificially.

15 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, except that  
16 if I am unable to take food by mouth, I wish to receive nutrition and hydration artificially.

17 \_\_\_\_\_ I DIRECT THAT IF I AM AT OR NEAR BRAIN DEATH, AN ANATOMICAL GIFT  
18 BE OFFERED ON MY BEHALF TO A PATIENT IN NEED OF AN ORGAN OR TISSUE  
19 TRANSPLANT. IF A TRANSPLANT OCCURS, I WANT ARTIFICIAL HEART/LUNG  
20 SUPPORT DEVICES TO BE CONTINUED ON MY BEHALF ONLY UNTIL ORGAN OR  
21 TISSUE SUITABILITY OF THE PATIENT IS CONFIRMED AND ORGAN OR TISSUE  
22 RECOVERY HAS TAKEN PLACE.

23           (2) If I am in a persistent vegetative state, that is, if I am not conscious and am not  
24 aware of my environment or able to interact with others, and there is no reasonable  
25 expectation of my recovery -

26 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, including  
27 the administration of nutrition and hydration artificially.

28 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, except that  
29 if I am unable to take food by mouth, I wish to receive nutrition and hydration artificially.

30 \_\_\_\_\_ I DIRECT THAT IF I AM AT OR NEAR BRAIN DEATH, AN ANATOMICAL GIFT  
31 BE OFFERED ON MY BEHALF TO A PATIENT IN NEED OF AN ORGAN OR TISSUE  
32 TRANSPLANT. IF A TRANSPLANT OCCURS, I WANT ARTIFICIAL HEART/LUNG  
33 SUPPORT DEVICES TO BE CONTINUED ON MY BEHALF ONLY UNTIL ORGAN OR  
34 TISSUE SUITABILITY OF THE PATIENT IS CONFIRMED AND ORGAN OR TISSUE  
35 RECOVERY HAS TAKEN PLACE.

36           (3) If I have an end-stage condition, that is a condition caused by injury, disease,  
37 or illness, as a result of which I have suffered severe and permanent deterioration  
38 indicated by incompetency and complete physical dependency and for which, to a  
39 reasonable degree of medical certainty, treatment of the irreversible condition would be  
40 medically ineffective -

41 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, including

6

1 the administration of nutrition and hydration artificially.

2 \_\_\_\_\_ I direct that my life not be extended by life-sustaining procedures, except that  
3 if I am unable to take food by mouth, I wish to receive nutrition and hydration artificially.

4 \_\_\_\_\_ I DIRECT THAT IF I AM AT OR NEAR BRAIN DEATH, AN ANATOMICAL GIFT  
5 BE OFFERED ON MY BEHALF TO A PATIENT IN NEED OF AN ORGAN OR TISSUE  
6 TRANSPLANT. IF A TRANSPLANT OCCURS, I WANT ARTIFICIAL HEART/LUNG  
7 SUPPORT DEVICES TO BE CONTINUED ON MY BEHALF ONLY UNTIL ORGAN OR  
8 TISSUE SUITABILITY OF THE PATIENT IS CONFIRMED AND ORGAN OR TISSUE  
9 RECOVERY HAS TAKEN PLACE.

10 \_\_\_\_\_ I direct that no matter what my condition, medication not be given to me to  
11 relieve pain and suffering, if it would shorten my remaining life.

12 \_\_\_\_\_ I direct that no matter what my condition, I be given all available medical  
13 treatment in accordance with accepted health care standards.

14 (4) If I am pregnant, my decision concerning life-sustaining procedures shall be  
15 modified as follows:

16 (5) I direct (in the following space, indicate any other instructions regarding  
17 receipt or nonreceipt of any health care)

18 By signing below, I indicate that I am emotionally and mentally competent to make this  
19 advance directive and that I understand the purpose and effect of this document.

20 \_\_\_\_\_  
21 (Date) (Signature of Declarant)

22 The declarant signed or acknowledged signing this appointment of a health care  
23 agent in my presence and based upon my personal observation appears to be a competent  
24 individual.

25 \_\_\_\_\_  
26 (Witness) (Witness)

27 [TAG center](Signature of two witnesses)

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 1996.