
By: **Delegate Walkup**

Introduced and read first time: February 14, 2002

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care - Advance Medical Directives**

3 FOR the purpose of altering a certain advance medical directive form to include
4 certain provisions regarding health care agents; altering a certain advance
5 medical directive to include a certain provision providing certain medical
6 treatment to individuals; making stylistic changes; and generally relating to
7 advance medical directives.

8 BY repealing and reenacting, with amendments,
9 Article - Health - General
10 Section 5-603
11 Annotated Code of Maryland
12 (2000 Replacement Volume and 2001 Supplement)

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

15 **Article - Health - General**

16 5-603.

17 **Health Care Decision Making [Forms] FORM**

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

1 [These forms are] THIS FORM IS intended to be A [guides] GUIDE. You [can use
2 one form or both, and you] may complete all or only part of the [forms] FORM that
3 you use. Different forms may also be used.

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

7 Form I
8 [Living Will

9 (Optional Form)

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

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

17 _____ I direct that my life not be extended by life-sustaining procedures, including
18 the administration of nutrition and hydration artificially.

19 _____ I direct that my life not be extended by life-sustaining procedures, except
20 that, if I am unable to take food by mouth, I wish to receive nutrition and hydration
21 artificially.

22 _____ I direct that, even in a terminal condition, I be given all available medical
23 treatment in accordance with accepted health care standards.

24 b.
25 If I am in a persistent vegetative state, that is if I am not conscious and am
26 not aware of my environment nor able to interact with others, and there is no
27 reasonable 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 my life not be extended by life-sustaining procedures, except
31 that if I am unable to take in food by mouth, I wish to receive nutrition and hydration
32 artificially.

33 _____ I direct that I be given all available medical treatment in accordance with
34 accepted health care standards.

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

1 _____
2 _____
3 _____

4 d. Upon my death, I wish to donate:

5 _____ Any needed organs, tissues, or eyes.

6 _____ Only the following organs, tissues, or eyes:

7 _____
8 _____

9 I authorize the use of my organs, tissues, or eyes:

10 _____ For transplantation

11 _____ For therapy

12 _____ For research

13 _____ For medical education

14 _____ For any purpose authorized by law.

15 I understand that before any vital organ, tissue, or eye may be removed for
16 transplantation, I must be pronounced dead. After death, I direct that all support
17 measures be continued to maintain the viability for transplantation of my organs,
18 tissues, and eyes until organ, tissue, and eye recovery has been completed.

19 I understand that my estate will not be charged for any costs associated with my
20 decision to donate my organs, tissues, or eyes or the actual disposition of my organs,
21 tissues, or eyes.

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

24 _____
25 (Date)(Signature of Declarant) _____

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

29 _____
30 (Witness) (Witness) _____

31 (Signature of Two Witnesses)

1 Form II]

2 Advance Directive

3 Part A

4 Appointment of Health Care Agent

5 (Optional Form)

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

9 (1) I, _____, residing at _____

10 _____
11 appoint the following individual as my agent to make health care decisions for me

12 _____
13 _____

14 (Full Name, Address, and Telephone Number)

15 Optional: If this agent is unavailable or is unable or unwilling to act as my agent,
16 then I appoint the following person to act in this capacity

17 _____
18 _____

19 (Full Name, Address, and Telephone Number)

20 (2) My agent has full power and authority to make health care decisions for me,
21 including the power to:

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

25 b. Employ and discharge my health care providers;

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

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

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

2 _____
3 _____
4 _____

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

6 _____ When my attending physician and a second physician determine that I am
7 incapable of making an informed decision regarding my health care; or

8 _____ When this document is signed.

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

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

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

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
24 competent individual.

25 _____
26 (Witness) (Witness) _____
(ADDRESS)(ADDRESS)

27 (Signature of Two Witnesses)

28 Part B
29 Advance Medical Directive
30 Health Care Instructions

31 (Optional Form)

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

1 If I am incapable of making an informed decision regarding my health care, I direct
2 my health care [providers to follow my instructions as set forth below. (Initial all
3 those that apply.)] AGENT(S) NAMED IN PART A OF THIS ADVANCE MEDICAL
4 DIRECTIVE, TO MAKE ALL DECISIONS REGARDING MY HEALTH CARE, TO TAKE ALL
5 ACTIONS THAT ARE REASONABLY CONSISTENT WITH MY WISHES AS KNOWN TO MY
6 AGENT AND TO TAKE ALL ACTIONS THAT ARE REASONABLY CALCULATED TO GIVE
7 FULL FORCE AND EFFECT TO THOSE DECISIONS. NOTHING CONTAINED IN PART B OF
8 THIS ADVANCE MEDICAL DIRECTIVE SHALL IN ANY WAY LIMIT THE AUTHORITY OF
9 MY AGENT TO MAKE HEALTH CARE DECISIONS ON MY BEHALF.

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

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

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

18 _____ I DIRECT THAT I BE GIVEN ALL AVAILABLE MEDICAL TREATMENT IN
19 ACCORDANCE WITH ACCEPTED HEALTH CARE STANDARDS.

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

23 _____ I direct that my life not be extended by life-sustaining procedures,
24 including the administration of nutrition and hydration artificially.

25 _____ I direct that my life not be extended by life-sustaining procedures, except
26 that if I am unable to take food by mouth, I wish to receive nutrition and hydration
27 artificially.

28 _____ I DIRECT THAT I BE GIVEN ALL AVAILABLE MEDICAL TREATMENT IN
29 ACCORDANCE WITH ACCEPTED HEALTH CARE STANDARDS.

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

35 _____ I direct that my life not be extended by life-sustaining procedures,
36 including the administration of nutrition and hydration artificially.

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

1 _____ I DIRECT THAT I BE GIVEN ALL AVAILABLE MEDICAL TREATMENT IN
2 ACCORDANCE WITH ACCEPTED HEALTH CARE STANDARDS.

3 (4) [I direct that no matter what my condition, medication not be given to me
4 to relieve pain and suffering, if it would shorten my remaining life.] I DIRECT THAT
5 MEDICATION BE GIVEN TO ME TO RELIEVE PAIN AND SUFFERING EVEN IF THE
6 ADMINISTRATION OF THAT MEDICATION WOULD SHORTEN MY LIFE.

7 (5) [I direct that no matter what my condition, I be given all available medical
8 treatment in accordance with accepted health care standards.

9 (6)] If I am pregnant, my decision concerning life-sustaining procedures shall
10 be modified as follows:

11 _____
12 _____
13 _____

14 [(7)] (6) Upon my death, I wish to donate:

15 _____ Any needed organs, tissues, or eyes.

16 _____ Only the following organs, tissues, or eyes:

17 _____
18 _____

19 I authorize the use of my organs, tissues, or eyes:

20 _____ For transplantation

21 _____ For therapy

22 _____ For research

23 _____ For medical education

24 _____ For any purpose authorized by law.

25 I understand that before any vital organ, tissue, or eye may be removed for
26 transplantation, I must be pronounced dead. After death, I direct that all support
27 measures be continued to maintain the viability for transplantation of my organs,
28 tissues, and eyes until organ, tissue, and eye recovery has been completed.

29 I understand that my estate will not be charged for any costs associated with my
30 decision to donate my organs, tissues, or eyes or the actual disposition of my organs,
31 tissues, or eyes.

32 [(8)] (7) I direct (in the following space, indicate any other instructions
33 regarding receipt or nonreceipt of any health care)

1 _____
 2 _____
 3 _____

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

7 _____
 8 (Date)(Signature of Declarant)

9 The declarant signed or acknowledged signing the foregoing advance directive in
 10 my presence and based upon personal observation appears to be a competent
 11 individual.

12 _____
 13 (Witness) (Witness)
 (ADDRESS)(ADDRESS)

14 (Signature of Two Witnesses)

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 16 October 1, 2002.