
By: **Delegates Hurson, Anderson, Barkley, Barve, Bobo, Bromwell, Bronrott, Cardin, V. Clagett, Cryor, Doory, Dumais, Feldman, Franchot, Gaines, Goldwater, Gordon, Gutierrez, Hammen, Heller, Hixson, Hubbard, Jones, Kaiser, King, Lee, Madaleno, Mandel, Marriott, McIntosh, Menes, Moe, Montgomery, Nathan-Pulliam, Niemann, Parker, Pendergrass, Petzold, Proctor, Quinter, Ramirez, Rosenberg, Ross, Stern, Taylor, F. Turner, V. Turner, and Zirkin**

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Decision Making Act of 2005**

3 FOR the purpose of establishing life partnerships in the State for certain purposes;
4 prohibiting an individual from claiming the benefits of a life partnership except
5 under certain circumstances; establishing certain crimes and penalties;
6 requiring individuals to register with the Secretary of Health and Mental
7 Hygiene in order to enter into a life partnership; requiring the Secretary to
8 develop certain forms and make the forms available at certain locations;
9 establishing certain procedures for applying for and obtaining a certificate of life
10 partnership; requiring the Secretary to adopt certain regulations; providing
11 certain procedures for the termination of a life partnership; requiring a life
12 partner that qualified for and claimed certain third party benefits to provide
13 notice to the third party on the termination of a life partnership; establishing
14 certain rights for certain third parties; requiring the Secretary to keep a
15 certificate of life partnership book containing certain information; requiring
16 certain health care facilities to allow life partners and certain relatives of life
17 partners to visit a life partner except under certain circumstances; requiring two
18 adults to be treated as life partners under certain circumstances related to
19 medical emergencies; providing for the scope of this Act; providing that this Act
20 may not be construed to recognize, condone, or prohibit a domestic partnership,
21 civil union, or marriage recognized in other states or jurisdictions; prohibiting
22 the Department of Health and Mental Hygiene from denying a life partner the
23 right to inspect a record to permit a disinterment or reinterment of a body;
24 authorizing a life partner to give consent to conduct a postmortem examination
25 of a certain body; authorizing the life partner to arrange for the final disposition
26 of the body of a decedent under certain circumstances; authorizing a life partner
27 to make the health care decisions for certain persons; authorizing a life partner
28 of a certain patient to petition a court to enjoin the actions of a certain health
29 care provider; authorizing a life partner to accompany an individual being

1 transported from one health care facility to another health care facility under
2 certain circumstances; establishing that a life partner may be a representative
3 of a deceased from whom a hospital may ask for authorization for a human
4 organ donation; prohibiting a hospital from billing a life partner for the costs
5 associated with the deceased life partner's organ donation; requiring that life
6 partners be given the opportunity to share a room in a certain facility under
7 certain circumstances; requiring certain related institutions to allow a resident
8 who is a party to a life partnership to have privacy during a visit by the other
9 life partner; authorizing the life partner to arrange the final disposition of the
10 body of a decedent with a mortician under certain circumstances; establishing
11 that for purposes of an interest in the property of a burial site, a life partner is
12 a person in interest; establishing that a life partner is a next of kin for purposes
13 of making anatomical gifts of a decedent; defining certain terms; making the
14 provisions of this Act severable; and generally relating to the Medical Decision
15 Making Act of 2005.

16 BY repealing and reenacting, without amendments,
17 Article - Health - General
18 Section 4-215(a), 5-501(a), 5-509(a), 5-605(a)(1), 10-807(a), 19-310(a) and (j),
19 19-343(a) and (b), and 19-344(a)
20 Annotated Code of Maryland
21 (2000 Replacement Volume and 2004 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Health - General
24 Section 1-101, 4-215(e), 5-501(b), 5-509(c), 5-605(a)(2), 5-612, 10-807(e),
25 19-310(d) and (g), and 19-344(h), (k), and (q)(1)
26 Annotated Code of Maryland
27 (2000 Replacement Volume and 2004 Supplement)

28 BY adding to
29 Article - Health - General
30 Section 6-101 through 6-401 to be under the new title "Title 6. Life
31 Partnerships"
32 Annotated Code of Maryland
33 (2000 Replacement Volume and 2004 Supplement)

34 BY repealing and reenacting, without amendments,
35 Article - Health Occupations
36 Section 7-410(a)
37 Annotated Code of Maryland
38 (2000 Replacement Volume and 2004 Supplement)

39 BY repealing and reenacting, with amendments,
40 Article - Health Occupations

1 Section 7-410(c)
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2004 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article - Real Property
6 Section 14-121(a)
7 Annotated Code of Maryland
8 (2003 Replacement Volume and 2004 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Estates and Trusts
11 Section 4-501
12 Annotated Code of Maryland
13 (2001 Replacement Volume and 2004 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 1-101.

18 (a) In this article the following words have the meanings indicated.

19 (b) "County" means a county of this State and, unless expressly provided
20 otherwise, Baltimore City.

21 (c) "Department" means the Department of Health and Mental Hygiene.

22 (d) "Health officer" means, unless expressly provided otherwise, the Baltimore
23 City Commissioner of Health or the health officer of a county.

24 (e) "Includes" or "including" means includes or including by way of illustration
25 and not by way of limitation.

26 (F) "LIFE PARTNER" MEANS AN INDIVIDUAL WHO HAS REGISTERED FOR A
27 CERTIFICATE OF LIFE PARTNERSHIP WITH THE SECRETARY UNDER TITLE 6 OF THIS
28 ARTICLE.

29 [(f)] (G) "Local health planning agency" means the health department of a
30 jurisdiction or a body designated by the local health department to perform health
31 planning functions.

32 [(g)] (H) "Medical examiner" means:

33 (1) The Chief Medical Examiner;

1 (2) The Deputy Chief Medical Examiner;

2 (3) Any assistant medical examiner; or

3 (4) Any deputy medical examiner.

4 [(h)] (I) "Person" means an individual, receiver, trustee, guardian, personal
5 representative, fiduciary, or representative of any kind and any partnership, firm,
6 association, corporation, or other entity.

7 [(i)] (J) "Physician" means an individual who is authorized under the
8 Maryland Medical Practice Act to practice medicine in this State.

9 [(j)] (K) "Secretary" means the Secretary of Health and Mental Hygiene.

10 [(k)] (L) "State" means:

11 (1) A state, possession, or territory of the United States;

12 (2) The District of Columbia; or

13 (3) The Commonwealth of Puerto Rico.

14 4-215.

15 (a) In this section, "cemetery" includes a crematory or other place for final
16 disposition.

17 (e) (1) A permit for disinterment and reinterment is required before the
18 disinterment of human remains if reinterment is not to be made in the same
19 cemetery. The Secretary or a health officer shall issue the permit after receipt of an
20 application on the form that the Secretary requires.

21 (2) If all human remains in a cemetery are to be disinterred for purposes
22 of relocation or abandonment of the cemetery, one application is sufficient for that
23 purpose.

24 (3) The Department shall keep a record of each permit issued for the
25 disinterment and reinterment of human remains.

26 (4) Except as provided in paragraph (5) of this subsection, the
27 Department may not disclose or allow public inspection of information in a permit
28 record about the location of the site of a disinterment or reinterment if a local burial
29 sites advisory board or the Director of the Maryland Historical Trust determines that:

30 (i) The site is historic property, as defined in Article 83B, § 5-601
31 of the Code; and

32 (ii) Disclosure would create a substantial risk of harm, theft, or
33 destruction to the site.

- 1 (5) The Department may not deny inspection of a permit record to:
- 2 (i) The owner of the site of the disinterment or reinterment;
- 3 (ii) A governmental entity that has the power of eminent domain; or
- 4 (iii) The spouse, LIFE PARTNER, next of kin, or appointed personal
- 5 representative of the deceased whose human remains have been disinterred or
- 6 reinterred.

7 5-501.

8 (a) Consent for a postmortem examination of a body by a physician is

9 sufficient if the consent is given as provided in this section.

10 (b) (1) The consent may be given by any one of the following persons if that

11 person, whether alone or with another, has assumed control of the body for its final

12 disposition:

- 13 (i) A parent;
- 14 (ii) A spouse;
- 15 (III) A LIFE PARTNER;
- 16 [(iii)] (IV) A child;
- 17 [(iv)] (V) A guardian;
- 18 [(v)] (VI) A next of kin; or
- 19 [(vi)] (VII) In the absence of these persons, any other person.

20 (2) If a person does not assume control of a body under paragraph (1) of

21 this subsection, the consent may be given by the State Anatomy Board.

22 5-509.

23 (a) Any individual who is 18 years of age or older may decide the disposition of

24 the individual's own body after that individual's death without the predeath or

25 post-death consent of another person by executing a document that expresses the

26 individual's wishes regarding disposition of the body or by entering into a pre-need

27 contract.

28 (c) Unless a person has knowledge that contrary directions have been given by

29 the decedent, if a decedent has not executed a document under subsection (a) of this

30 section, the following persons, in the order of priority stated, have the right to arrange

31 for the final disposition of the body of the decedent, including by cremation under §

32 5-502 of this subtitle:

- 33 (1) The surviving spouse OR LIFE PARTNER of the decedent;

- 1 (2) An adult child of the decedent;
- 2 (3) A parent of the decedent;
- 3 (4) An adult brother or sister of the decedent;
- 4 (5) A person acting as a representative of the decedent under a signed
5 authorization of the decedent;
- 6 (6) The guardian of the person of the decedent at the time of the
7 decedent's death, if one has been appointed; or
- 8 (7) In the absence of any person under paragraphs (1) through (6) of this
9 subsection, any other person willing to assume the responsibility to act as the
10 authorizing agent for purposes of arranging the final disposition of the decedent's
11 body, including the personal representative of the decedent's estate, after attesting in
12 writing that a good faith effort has been made to no avail to contact the individuals
13 under paragraphs (1) through (6) of this subsection.

14 5-605.

- 15 (a) (1) In this subsection, "unavailable" means:
- 16 (i) After reasonable inquiry, a health care provider is unaware of
17 the existence of a surrogate decision maker;
- 18 (ii) After reasonable inquiry, a health care provider cannot
19 ascertain the whereabouts of a surrogate decision maker;
- 20 (iii) A surrogate decision maker has not responded in a timely
21 manner, taking into account the health care needs of the individual, to a written or
22 oral message from a health care provider;
- 23 (iv) A surrogate decision maker is incapacitated; or
- 24 (v) A surrogate decision maker is unwilling to make decisions
25 concerning health care for the individual.
- 26 (2) The following individuals or groups, in the specified order of priority,
27 may make decisions about health care for a person who has been certified to be
28 incapable of making an informed decision and who has not appointed a health care
29 agent in accordance with this subtitle. Individuals in a particular class may be
30 consulted to make a decision only if all individuals in the next higher class are
31 unavailable:
- 32 (i) A guardian for the patient, if one has been appointed;
- 33 (ii) The patient's spouse OR LIFE PARTNER;
- 34 (iii) An adult child of the patient;

- 1 (iv) A parent of the patient;
- 2 (v) An adult brother or sister of the patient; or
- 3 (vi) A friend or other relative of the patient who meets the
4 requirements of paragraph (3) of this subsection.

5 5-612.

6 (a) (1) A health care provider for an individual incapable of making an
7 informed decision who believes that an instruction to withhold or withdraw a
8 life-sustaining procedure from the patient is inconsistent with generally accepted
9 standards of patient care shall:

10 (i) Petition a patient care advisory committee for advice concerning
11 the withholding or withdrawal of the life-sustaining procedure from the patient if the
12 patient is in a hospital or related institution; or

13 (ii) File a petition in a court of competent jurisdiction seeking
14 injunctive or other relief relating to the withholding or withdrawal of the
15 life-sustaining procedure from the patient.

16 (2) In reviewing a petition filed under paragraph (1) of this subsection,
17 the court shall follow the standards set forth in §§ 13-711 through 13-713 of the
18 Estates and Trusts Article.

19 (b) On petition of the patient's spouse, LIFE PARTNER, a parent, adult child,
20 grandchild, brother, or sister of the patient, or a friend or other relative who has
21 qualified as a surrogate under § 5-605 of this subtitle to a circuit court of the county
22 or city in which the patient for whom treatment will be or is currently being provided,
23 withheld, or withdrawn under this subtitle resides or is located, the court may enjoin
24 that action upon finding by a preponderance of the evidence that the action is not
25 lawfully authorized by this subtitle or by other State or federal law.

26 (c) Except for cases that the court considers of greater importance, a
27 proceeding under this section, including an appeal, shall:

- 28 (1) Take precedence on the docket;
- 29 (2) Be heard at the earliest practicable date; and
- 30 (3) Be expedited in every way.

31 TITLE 6. LIFE PARTNERSHIPS.

32 SUBTITLE 1. DEFINITIONS.

33 6-101.

34 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

1 (B) "CERTIFICATE OF LIFE PARTNERSHIP" MEANS A CERTIFICATE ISSUED BY
2 THE SECRETARY ESTABLISHING A LIFE PARTNERSHIP AND AUTHORIZING THE LIFE
3 PARTNERS TO CLAIM THE BENEFITS OF A LIFE PARTNERSHIP.

4 (C) (1) "COMMON RESIDENCE" MEANS THE SHARED PLACE WHERE BOTH
5 LIFE PARTNERS LIVE.

6 (2) "COMMON RESIDENCE" INCLUDES THE SHORT-TERM OR
7 LONG-TERM TEMPORARY LEAVING OF THE COMMON RESIDENCE BY ONE LIFE
8 PARTNER WITH THE INTENT TO RETURN TO THE COMMON RESIDENCE.

9 (3) "COMMON RESIDENCE" DOES NOT MEAN THAT:

10 (I) BOTH LIFE PARTNERS ARE REQUIRED TO HAVE THE RIGHT TO
11 LEGAL POSSESSION OF THE COMMON RESIDENCE; OR

12 (II) A LIFE PARTNER MAY NOT HAVE AN ADDITIONAL RESIDENCE.

13 (D) (1) "MUTUAL INTERDEPENDENCE" MEANS THAT EACH LIFE PARTNER IN
14 A RELATIONSHIP CONTRIBUTES TO THE MAINTENANCE AND SUPPORT OF THE
15 OTHER LIFE PARTNER AND THE RELATIONSHIP.

16 (2) "MUTUAL INTERDEPENDENCE" DOES NOT MEAN THAT THE LIFE
17 PARTNERS ARE REQUIRED TO CONTRIBUTE EQUALLY TO THE RELATIONSHIP.

18 SUBTITLE 2. GENERAL PROVISIONS AND REGISTRATION OF LIFE PARTNERSHIPS.

19 6-201.

20 (A) A LIFE PARTNERSHIP IS NOT ESTABLISHED AND AN INDIVIDUAL MAY NOT
21 CLAIM THE BENEFITS OF A LIFE PARTNERSHIP UNLESS THE INDIVIDUAL HAS BEEN
22 ISSUED A CERTIFICATE OF LIFE PARTNERSHIP BY THE SECRETARY.

23 (B) AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A
24 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF \$100.

25 6-202.

26 (A) TO QUALIFY FOR A CERTIFICATE OF LIFE PARTNERSHIP, A REGISTRANT
27 SHALL MEET THE REQUIREMENTS OF THIS SECTION.

28 (B) A REGISTRANT QUALIFIES UNDER THIS SECTION IF:

29 (1) EACH INDIVIDUAL IS AT LEAST 18 YEARS OLD;

30 (2) THE INDIVIDUALS ARE NOT RELATED TO THE OTHER BY BLOOD OR
31 MARRIAGE WITHIN FOUR DEGREES OF CONSANGUINITY UNDER THE CIVIL LAW
32 RULE;

33 (3) (I) THE INDIVIDUALS ARE OF THE SAME SEX; OR

1 (II) THE INDIVIDUALS ARE OF THE OPPOSITE SEX;

2 (4) NEITHER INDIVIDUAL IS MARRIED OR IS A MEMBER OF A CIVIL
3 UNION OR DOMESTIC PARTNERSHIP WITH ANOTHER INDIVIDUAL;

4 (5) THE INDIVIDUALS AGREE TO BE IN A RELATIONSHIP OF MUTUAL
5 INTERDEPENDENCE;

6 (6) THE INDIVIDUALS SHARE A COMMON RESIDENCE; AND

7 (7) THE INDIVIDUALS AGREE TO REGISTER WITH THE SECRETARY.

8 6-203.

9 (A) THE SECRETARY SHALL DEVELOP:

10 (1) A "DECLARATION OF LIFE PARTNERSHIP" FORM; AND

11 (2) A "NOTICE OF TERMINATION OF LIFE PARTNERSHIP" FORM.

12 (B) (1) THE SECRETARY SHALL DISTRIBUTE "DECLARATION OF LIFE
13 PARTNERSHIP" FORMS AND "NOTICE OF TERMINATION OF LIFE PARTNERSHIP"
14 FORMS TO EACH COUNTY CLERK AND SHALL MAKE THE FORMS AVAILABLE IN THE
15 DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND IN LOCAL HEALTH
16 DEPARTMENTS.

17 (2) (I) THE SECRETARY SHALL MAKE THE FORMS AVAILABLE ON THE
18 DEPARTMENT'S WEBSITE.

19 (II) EACH COUNTY CLERK SHALL MAKE THE FORMS AVAILABLE ON
20 THE COUNTY CLERK'S WEBSITE.

21 (C) (1) THE SECRETARY SHALL SET A REASONABLE FEE, BASED ON THE
22 COSTS OF PROCESSING THE FORMS, TO FILE A "DECLARATION OF LIFE
23 PARTNERSHIP" FORM.

24 (2) THERE SHALL BE NO FEE CHARGED FOR FILING A "NOTICE OF
25 TERMINATION OF LIFE PARTNERSHIP" FORM.

26 (D) THE FORMS SHALL BE MAILED TO THE SECRETARY BY CERTIFIED MAIL
27 ACCORDING TO INSTRUCTIONS PROVIDED ON THE FORMS.

28 6-204.

29 (A) (1) THE "DECLARATION OF LIFE PARTNERSHIP" FORM SHALL REQUIRE
30 EACH INDIVIDUAL SEEKING DESIGNATION AS A LIFE PARTNER TO:

31 (I) VERIFY THAT EACH INDIVIDUAL MEETS THE REQUIREMENTS
32 OF § 6-202 OF THIS SUBTITLE;

33 (II) PROVIDE A MAILING ADDRESS; AND

1 (III) SIGN THE FORM WITH A DECLARATION THAT THE
2 DECLARATIONS MADE ON THE FORM ARE TRUE, CORRECT, AND CONTAIN NO
3 MATERIAL OMISSIONS OF FACT TO THE BEST KNOWLEDGE AND BELIEF OF EACH
4 APPLICANT.

5 (2) THE "DECLARATION OF LIFE PARTNERSHIP" FORM SHALL REQUIRE
6 THE SIGNATURE AND SEAL OF ACKNOWLEDGMENT BY A NOTARY PUBLIC TO BE
7 BINDING AND VALID.

8 (3) THE "DECLARATION OF LIFE PARTNERSHIP" FORM SHALL INCLUDE A
9 REFERENCE TO THE INFORMATION SHEET ON ADVANCE DIRECTIVES DEVELOPED
10 UNDER § 5-615 OF THIS ARTICLE.

11 (B) THE SECRETARY SHALL REGISTER THE "DECLARATION OF LIFE
12 PARTNERSHIP" FORM AS PROVIDED IN § 6-206 OF THIS SUBTITLE, AND SHALL
13 RETURN A COPY OF THE REGISTERED FORM TO THE LIFE PARTNERS AT THE
14 ADDRESS PROVIDED BY THE LIFE PARTNERS AS THEIR COMMON RESIDENCE.

15 (C) AN INDIVIDUAL WHO HAS PREVIOUSLY REGISTERED A LIFE PARTNERSHIP
16 WITH THE SECRETARY MAY NOT REGISTER A NEW LIFE PARTNERSHIP UNTIL 90 DAYS
17 AFTER THE DATE THAT A NOTICE OF TERMINATION OF LIFE PARTNERSHIP WAS
18 RECORDED BY THE SECRETARY.

19 6-205.

20 (A) (1) A LIFE PARTNERSHIP SHALL TERMINATE:

21 (I) ON THE DEATH OF A LIFE PARTNER; OR

22 (II) WHEN A NOTICE OF TERMINATION OF LIFE PARTNERSHIP HAS
23 BEEN ACCEPTED FOR RECORD BY THE SECRETARY.

24 (2) NOTWITHSTANDING PARAGRAPH (1)(I) OF THIS SUBSECTION, THE
25 POST-DEATH RIGHTS CONFERRED TO A LIFE PARTNER DO NOT TERMINATE UPON
26 THE DEATH OF A LIFE PARTNER.

27 (B) (1) WITHIN 90 DAYS OF THE DISSOLUTION OF A LIFE PARTNERSHIP, AT
28 LEAST ONE MEMBER OF THE LIFE PARTNERSHIP SHALL SEND, BY CERTIFIED MAIL, A
29 NOTICE TO THE SECRETARY.

30 (2) WHEN THE SECRETARY ACCEPTS FOR RECORD A NOTICE, THE
31 SECRETARY SHALL:

32 (I) ENDORSE ON THE NOTICE ITS ACCEPTANCE FOR RECORD AND
33 THE DATE AND TIME OF ACCEPTANCE;

34 (II) RECORD PROMPTLY THE NOTICE; AND

1 (III) PROVIDE THE LIFE PARTNER WHO FILED THE NOTICE TWO
2 COPIES OF THE NOTICE WITH THE ENDORSEMENTS REQUIRED IN ITEM (I) OF THIS
3 PARAGRAPH.

4 (3) WITHIN 5 DAYS OF RECEIVING THE COPIES OF THE NOTICE
5 ENDORSED BY THE SECRETARY, THE LIFE PARTNER SHALL SEND, BY CERTIFIED
6 MAIL, A COPY OF THE NOTICE ENDORSED BY THE SECRETARY TO THE OTHER LIFE
7 PARTNER'S LAST KNOWN ADDRESS.

8 (C) (1) (I) THIS SUBSECTION APPLIES TO A LIFE PARTNER WHO HAS
9 GIVEN A COPY OF A CERTIFICATE OF LIFE PARTNERSHIP TO A THIRD PARTY TO
10 QUALIFY FOR OR CLAIM ANY BENEFIT OR RIGHT OF A LIFE PARTNER.

11 (II) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE AN
12 EMPLOYER TO OFFER OR PROHIBIT AN EMPLOYER FROM OFFERING HEALTH
13 INSURANCE BENEFITS TO LIFE PARTNERS.

14 (2) ANY BENEFIT OR RIGHT OFFERED BY A THIRD PARTY THAT A LIFE
15 PARTNER CLAIMS AS A RESULT OF A LIFE PARTNERSHIP, SHALL IMMEDIATELY
16 TERMINATE ON THE TERMINATION OF A LIFE PARTNERSHIP.

17 (3) ON THE TERMINATION OF A LIFE PARTNERSHIP, A LIFE PARTNER
18 SHALL GIVE OR SEND TO THE THIRD PARTY, AT THE LAST KNOWN ADDRESS OF THE
19 THIRD PARTY, WRITTEN NOTIFICATION THAT THE LIFE PARTNERSHIP HAS BEEN
20 TERMINATED.

21 (4) A THIRD PARTY WHO SUFFERS A LOSS AS A RESULT OF THE FAILURE
22 OF A LIFE PARTNER TO NOTIFY THE THIRD PARTY OF THE TERMINATION OF A LIFE
23 PARTNERSHIP IS ENTITLED TO RECOVER ANY ACTUAL DAMAGES.

24 6-206.

25 THE SECRETARY SHALL KEEP A CERTIFICATE OF LIFE PARTNERSHIP BOOK,
26 WHICH SHALL CONTAIN:

27 (1) A COMPLETE RECORD OF EACH REGISTRATION ISSUED;

28 (2) A COMPLETE RECORD OF ALL MATTERS THE DESIGNATED OFFICIAL
29 IS REQUIRED TO ASCERTAIN THAT RELATE TO THE RIGHTS OF AN INDIVIDUAL TO
30 OBTAIN A REGISTRATION;

31 (3) IN REGULAR ORDER, THE ITEMS SUBMITTED BY THE REGISTRANTS
32 AS REQUIRED UNDER THIS TITLE;

33 (4) PROPERLY INDEXED, THE NAME OF EACH INDIVIDUAL WHO
34 INTENDS TO REGISTER A LIFE PARTNERSHIP; AND

35 (5) THE DATE EACH REGISTRATION WAS RECORDED AND THE NAME OF
36 THE NOTARY PUBLIC WHO WITNESSED THE SIGNATURES.

1 6-207.

2 (A) AN INDIVIDUAL MAY NOT KNOWINGLY MAKE ANY MATERIAL FALSE
3 STATEMENT TO OBTAIN OR TO HELP ANOTHER INDIVIDUAL TO OBTAIN A
4 CERTIFICATE OF LIFE PARTNERSHIP IN VIOLATION OF THIS TITLE.

5 (B) AN INDIVIDUAL WHO VIOLATES THE PROVISIONS OF THIS SECTION IS
6 GUILTY OF PERJURY.

7 6-208.

8 THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS
9 OF THIS TITLE.

10 SUBTITLE 3. MEDICAL EMERGENCIES.

11 6-301.

12 (A) A HOSPITAL, RELATED INSTITUTION, AND RESIDENTIAL TREATMENT
13 CENTER, AS DEFINED IN § 19-301 OF THIS ARTICLE, SHALL ALLOW A PATIENT'S LIFE
14 PARTNER, THE CHILDREN OF THE PATIENT'S LIFE PARTNER, AND THE LIFE PARTNER
15 OF THE PATIENT'S PARENT OR CHILD TO VISIT, UNLESS:

16 (1) NO VISITORS ARE ALLOWED;

17 (2) THE FACILITY REASONABLY DETERMINES THAT THE PRESENCE OF A
18 PARTICULAR VISITOR WOULD ENDANGER THE HEALTH OR SAFETY OF A PATIENT OR
19 MEMBER OF THE FACILITY STAFF; OR

20 (3) THE PATIENT TELLS THE FACILITY STAFF THAT THE PATIENT DOES
21 NOT WANT THE INDIVIDUAL TO VISIT.

22 (B) THIS SECTION DOES NOT PROHIBIT A HOSPITAL, RELATED INSTITUTION,
23 OR RESIDENTIAL TREATMENT CENTER FROM ESTABLISHING REASONABLE
24 RESTRICTIONS UPON VISITATION, INCLUDING RESTRICTIONS ON THE HOURS OF
25 VISITATION AND NUMBER OF VISITORS.

26 6-302.

27 (A) THIS SECTION APPLIES TO TWO ADULTS WHO QUALIFY FOR A
28 CERTIFICATE OF REGISTRATION OF A LIFE PARTNERSHIP BUT ARE NOT
29 REGISTERED.

30 (B) IN THE CASE OF A MEDICAL EMERGENCY, TWO ADULTS SHALL BE
31 TREATED AS LIFE PARTNERS IF ONE OF THE ADULTS TELLS, IN GOOD FAITH, THE
32 EMERGENCY MEDICAL PROVIDER OR HOSPITAL PERSONNEL THAT THE ADULTS ARE
33 IN A MUTUALLY INTERDEPENDENT RELATIONSHIP, FOR THE FOLLOWING PURPOSES
34 ONLY:

1 (1) IN ACCORDANCE WITH COUNTY OR COMPANY EMERGENCY MEDICAL
2 SERVICES TRANSPORT POLICIES, ALLOWING ONE ADULT TO ACCOMPANY THE ILL OR
3 INJURED ADULT BEING TRANSPORTED TO A HOSPITAL IN AN EMERGENCY VEHICLE;
4 AND

5 (2) VISITATION WITH THE ILL OR INJURED ADULT ADMITTED TO A
6 HOSPITAL ON AN EMERGENCY BASIS ON THE SAME BASIS AS A MEMBER OF THE ILL
7 OR INJURED ADULT'S IMMEDIATE FAMILY.

8 SUBTITLE 4. LIFE PARTNER'S RIGHTS AND OBLIGATIONS.

9 6-401.

10 (A) THE RIGHTS AND OBLIGATIONS OF A LIFE PARTNER AS A RESULT OF
11 REGISTERING A LIFE PARTNERSHIP ARE ONLY THOSE DESCRIBED IN THIS ARTICLE,
12 TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE, TITLE 6 OF THE REAL PROPERTY
13 ARTICLE, AND TITLE 4 OF THE ESTATES AND TRUSTS ARTICLE.

14 (B) THE ESTABLISHMENT OF A LIFE PARTNERSHIP REGISTRY IN THIS STATE
15 MAY NOT BE CONSTRUED TO RECOGNIZE, CONDONE, OR PROHIBIT A DOMESTIC
16 PARTNERSHIP, CIVIL UNION, OR MARRIAGE BETWEEN TWO INDIVIDUALS OF THE
17 SAME SEX ENTERED INTO IN ANOTHER STATE OR JURISDICTION.

18 10-807.

19 (a) The Director may transfer an individual from a public facility to another
20 public facility or, if a private facility agrees, to that private facility, if the Director
21 finds that:

22 (1) The individual either can receive better care or treatment in or would
23 be more likely to benefit from care or treatment at the other facility; or

24 (2) The safety or welfare of other individuals would be furthered.

25 (e) An individual may not be transported to or from any facility unless
26 accompanied by:

27 (1) An ambulance attendant or other individual who is authorized by the
28 facility and is of the same sex. However, the chief executive officer of the facility or
29 that officer's designee may designate an ambulance attendant or other person of
30 either sex to provide transportation to an individual, if deemed appropriate; or

31 (2) The parent, spouse, LIFE PARTNER, adult sibling, or adult offspring of
32 the individual.

33 19-310.

34 (a) In this section, "designated requestor" means a hospital employee who has
35 completed a course offered by an organ, tissue, or eye recovery agency on how to
36 approach potential donor families and request organ or tissue donation.

1 (d) (1) Except as provided in subsection (j) of this section, when an
2 individual dies in a hospital in accordance with § 5-202 of this article, a
3 representative of the appropriate organ, tissue, or eye recovery agency or a
4 designated requestor shall request, with sensitivity, in the order of stated priority,
5 that the individual's representative consent to the donation of all or any of the
6 decedent's organs or tissues as an anatomical donation if suitable.

7 (2) For the purposes of paragraph (1) of this subsection, the
8 representative of the deceased individual is 1 of the following individuals listed in the
9 following order of priority:

10 (i) A spouse OR LIFE PARTNER, but, if not alive or not competent,
11 then;

12 (ii) A son or daughter who is at least 18 years old, but, if not alive,
13 competent, or immediately available, then;

14 (iii) A parent, but, if not alive, competent, or immediately available,
15 then;

16 (iv) A brother or sister who is at least 18 years old, but, if not alive
17 or not competent, then;

18 (v) A guardian;

19 (vi) A friend or other relative of the decedent, if the individual:

20 1. Is a competent individual; and

21 2. Presents an affidavit to the attending physician stating:

22 A. That the individual is a relative or close friend of the
23 decedent; and

24 B. Specific facts and circumstances demonstrating that the
25 individual maintained regular contact with the decedent sufficient to be familiar with
26 the decedent's activities, health, and personal beliefs; or

27 (vii) Any other person authorized or required to dispose of the body.

28 (3) (i) This subsection does not apply if the decedent has given
29 contrary directions.

30 (ii) The failure of the decedent to make a gift is not a contrary
31 direction for purposes of this subsection.

32 (4) Contrary directions given by the decedent under this subsection shall
33 be recorded in the decedent's medical record.

34 (5) The representative of the appropriate organ, tissue, or eye recovery
35 agency or the designated requestor and the representative of the deceased patient are

1 entitled to protection from civil and criminal liability as provided in § 4-508(b) of the
2 Estates and Trusts Article.

3 (g) A hospital may not bill the estate of the decedent, a surviving spouse OR
4 LIFE PARTNER of the decedent, any heirs of the decedent, or an insurer of the
5 decedent for the costs associated with the removal of all or any of the decedent's
6 organs or tissues for the purpose of an anatomical donation.

7 (j) The consent of the decedent's representative is not necessary and the
8 provisions of subsection (d) of this section do not apply if:

9 (1) The decedent's driver's license or identification card contains a
10 notation that the decedent is an organ donor; or

11 (2) The decedent has consented to the gift of all or any part of the
12 decedent's body in accordance with the provisions of:

13 (i) § 5-604.1 of this article; or

14 (ii) Title 4, Subtitle 5 of the Estates and Trusts Article.

15 19-343.

16 (a) In this section and §§ 19-344 and 19-345 of this subtitle, "facility" means
17 a related institution that, under the rules and regulations of the Department, is a
18 comprehensive care facility or an extended care facility.

19 (b) (1) The General Assembly intends to promote the interests and
20 well-being of each resident of a facility.

21 (2) It is the policy of this State that, in addition to any other rights, each
22 resident of a facility has the following basic rights:

23 (i) The right to be treated with consideration, respect, and full
24 recognition of human dignity and individuality;

25 (ii) The right to receive treatment, care, and services that are
26 adequate, appropriate, and in compliance with relevant State and federal laws, rules,
27 and regulations;

28 (iii) The right to privacy;

29 (iv) The right to be free from mental and physical abuse;

30 (v) The right to expect and receive appropriate assessment,
31 management, and treatment of pain as an integral component of the patient's care;

32 (vi) The right to be free from physical and chemical restraints,
33 except for restraints that a physician authorizes for a clearly indicated medical need;

1 (vii) The right to receive respect and privacy in a medical care
2 program; and

3 (viii) The right to manage personal financial affairs.

4 19-344.

5 (a) To carry out the policy set forth in § 19-343 of this subtitle, the following
6 procedures are required for all services provided to a resident of a facility.

7 (h) If it is feasible to do so and not medically contraindicated, spouses OR LIFE
8 PARTNERS who are both residents of the facility shall be given the opportunity to
9 share a room.

10 (k) (1) Each married resident of a facility shall have privacy during a visit
11 by the spouse.

12 (2) EACH RESIDENT WHO IS PARTY TO A LIFE PARTNERSHIP SHALL
13 HAVE PRIVACY DURING A VISIT BY THE OTHER LIFE PARTNER.

14 (q) (1) A resident of a facility or the next of kin, LIFE PARTNER, or guardian
15 of the person of a resident may file a complaint about an alleged violation of this
16 section.

17 **Article - Health Occupations**

18 7-410.

19 (a) Any individual who is 18 years of age or older may decide the disposition of
20 the individual's own body after the individual's death without the pre-death or
21 post-death consent of another person by executing a document that expresses the
22 individual's wishes or by entering into a pre-need contract.

23 (c) Unless a person has knowledge that contrary directions have been given by
24 the decedent, if a decedent has not executed a document under subsection (a) of this
25 section, the following persons, in the order of priority stated, have the right to arrange
26 for the final disposition of the body of the decedent under this section and are liable
27 for the reasonable costs of preparation, care, and disposition of the decedent:

28 (1) The surviving spouse OR LIFE PARTNER, AS DEFINED IN § 1-101 OF
29 THE HEALTH - GENERAL ARTICLE, of the decedent;

30 (2) An adult child of the decedent;

31 (3) A parent of the decedent;

32 (4) An adult brother or sister of the decedent;

33 (5) A person acting as a representative of the decedent under a signed
34 authorization of the decedent;

1 (6) The guardian of the person of the decedent at the time of the
2 decedent's death, if a guardian has been appointed; or

3 (7) In the absence of any person under paragraphs (1) through (6) of this
4 subsection, any other person willing to assume the responsibility to act as the
5 authorizing agent for purposes of arranging the final disposition of the decedent's
6 body, including the personal representative of the decedent's estate, after attesting in
7 writing that a good faith effort has been made to no avail to contact the persons
8 described in paragraphs (1) through (6) of this subsection.

9 **Article - Real Property**

10 14-121.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) (i) "Burial site" means any natural or prepared physical location,
13 whether originally located below, on, or above the surface of the earth into which
14 human remains or associated funerary objects are deposited as a part of a death rite
15 or ceremony of any culture, religion, or group.

16 (ii) "Burial site" includes the human remains and associated
17 funerary objects that result from a shipwreck or accident and are intentionally left to
18 remain at the site.

19 (3) "Cultural affiliation" means a relationship of shared group identity
20 that can be reasonably traced historically between a present-day group, tribe, band,
21 or clan and an identifiable earlier group.

22 (4) "Person in interest" means a person who:

23 (i) Is related by blood or marriage to the person interred in a burial
24 site;

25 (II) IS A LIFE PARTNER, AS DEFINED IN § 1-101 OF THE HEALTH -
26 GENERAL ARTICLE, OF A PERSON INTERRED IN A BURIAL SITE;

27 [(ii)] (III) Has a cultural affiliation with the person interred in a
28 burial site; or

29 [(iii)] (IV) Has an interest in a burial site that the Office of the
30 State's Attorney for the county where the burial site is located recognizes is in the
31 public interest after consultation with a local burial sites advisory board or, if such a
32 board does not exist, the Maryland Historical Trust.

33 **Article - Estates and Trusts**

34 4-501.

35 (a) In this subtitle the following words have the meanings indicated.

1 (b) "Body" or "part of body" includes organs, tissues, bones, blood, and other
2 body fluids.

3 (c) "Licensed hospital" includes any hospital licensed by the State Department
4 of Health and Mental Hygiene under the laws of the State, and any hospital operated
5 by the United States government, although not required to be licensed under the laws
6 of the State.

7 (d) "Next of kin" includes spouse AND LIFE PARTNER, AS DEFINED IN § 1-101
8 OF THE HEALTH - GENERAL ARTICLE.

9 (e) "Person" means any individual, corporation, government or governmental
10 agency or subdivision, estate, trust, partnership or association, or any other legal
11 entity.

12 (f) "Physician" or "surgeon" means any physician or surgeon licensed to
13 practice under the laws of the State.

14 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
15 Act or the application thereof to any person or circumstance is held invalid for any
16 reason in a court of competent jurisdiction, the invalidity does not affect other
17 provisions or any other application of this Act which can be given effect without the
18 invalid provision or application, and for this purpose the provisions of this Act are
19 declared severable.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 July 1, 2005.