

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Living Will Act is amended by changing Section 9 and by adding Sections 3.5 and 9.5 as follows:

(755 ILCS 35/3.5 new)

Sec. 3.5. Applicability. Section 4-11 of the Illinois Power of Attorney Act governs the applicability of this Act if a patient has a health care agency. Notwithstanding Section 9.5 or any other provision in this Act, a declaration is not operative as long as an agent is available who is authorized by a health care agency to make decisions concerning life-sustaining or death delaying procedures for the patient, and nothing in this Act may impair or supersede the authority of an agent under a health care agency to make decisions regarding life-sustaining or death delaying treatment.

(755 ILCS 35/9) (from Ch. 110 1/2, par. 709)

Sec. 9. General provisions.

(a) The withholding or withdrawal of death delaying procedures from a qualified patient in accordance with the provisions of this Act shall not, for any purpose, constitute

a suicide.

(b) The making of a declaration pursuant to Section 3 shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of death delaying procedures from an insured qualified patient, notwithstanding any term of the policy to the contrary.

(c) No physician, health care facility, or other health care provider, and no health care service plan, health maintenance organization, insurer issuing disability insurance, self-insured employee welfare benefit plan, nonprofit medical service corporation or mutual nonprofit hospital service corporation shall require any person to execute a declaration as a condition for being insured for, or receiving, health care services.

(d) Nothing in this Act shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of death delaying procedures in any lawful manner. In such respect the provisions of this Act are cumulative.

(e) This Act shall create no presumption concerning the intention of an individual who has not executed a declaration to consent to the use or withholding of death delaying

procedures in the event of a terminal condition.

(f) Nothing in this Act shall be construed to condone, authorize or approve mercy killing or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying as provided in this Act.

(g) An instrument executed before the effective date of this Act that substantially complies with subsection (e) of Section 3 shall be given effect pursuant to the provisions of this Act.

(h) A declaration executed in another state in compliance with the law of that state or this State is validly executed for purposes of this Act, and such declaration shall be applied in accordance with the provisions of this Act.

(i) Documents, writings, forms, and copies referred to in this Act may be in hard copy or electronic format. Nothing in this Act is intended to prevent the population of a declaration, document, writing, or form with electronic data. Electronic documents under this Act may be created, signed, or revoked electronically using a generic, technology-neutral system in which each user is assigned a unique identifier that is securely maintained and in a manner that meets the regulatory requirements for a digital or electronic signature. Compliance with the standards defined in the Uniform Electronic Transactions Act or the implementing rules of the Hospital Licensing Act for medical record entry authentication

for author validation of the documentation, content accuracy, and completeness meets this standard.

(j) No physician, health care provider, employee, or facility may require the execution of a POLST or other such similar form to put into effect the qualified patient's declaration if a patient has been determined to be a qualified patient.

(k) Except as otherwise provided in this Act, a physician, health care provider, employee, or facility may rely on and must comply with a qualified patient's declaration that is apparent and immediately available if a patient has been determined to be a qualified patient and the patient lacks ability to give directions regarding the use of death delaying procedures.

(l) Nothing in this Act impairs or supersedes a surrogate decision maker's authority to make decisions regarding life-sustaining or death delaying treatment on behalf of a patient who lacks decisional capacity and has a qualifying condition as defined in the Health Care Surrogate Act.

(Source: P.A. 101-163, eff. 1-1-20; 102-38, eff. 6-25-21.)

(755 ILCS 35/9.5 new)

Sec. 9.5. Operation of living will. Subject to Section 3.5 and Section 9(1), a declaration under this Act becomes operative when all of the following conditions have been met:

(1) it has been validly executed;

(2) it has not been revoked in accordance with Section 5;

(3) the patient is unable to give directions regarding the use of life-sustaining or death delaying procedures;
and

(4) the patient is a qualified patient.

An operative and unrevoked living will declaration continues in effect until revoked in accordance with this Act.