

1 AN ACT concerning civil law.

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

4 Section 5. The Health Care Surrogate Act is amended by
5 changing Section 10 as follows:

6 (755 ILCS 40/10) (from Ch. 110 1/2, par. 851-10)

7 Sec. 10. Definitions.

8 "Adult" means a person who is (i) 18 years of age or older
9 or (ii) an emancipated minor under the Emancipation of Minors
10 Act.

11 "Artificial nutrition and hydration" means supplying food
12 and water through a conduit, such as a tube or intravenous
13 line, where the recipient is not required to chew or swallow
14 voluntarily, including, but not limited to, nasogastric tubes,
15 gastrostomies, jejunostomies, and intravenous infusions.
16 Artificial nutrition and hydration does not include assisted
17 feeding, such as spoon or bottle feeding.

18 "Available" means that a person is not "unavailable". A
19 person is unavailable if (i) the person's existence is not
20 known, (ii) the person has not been able to be contacted by
21 telephone or mail, or (iii) the person lacks decisional
22 capacity, refuses to accept the office of surrogate, or is
23 unwilling to respond in a manner that indicates a choice among

1 the treatment matters at issue.

2 "Attending physician" means the physician selected by or
3 assigned to the patient who has primary responsibility for
4 treatment and care of the patient and who is a licensed
5 physician in Illinois or a physician licensed in the state
6 where the patient is being treated. If more than one physician
7 shares that responsibility, any of those physicians may act as
8 the attending physician under this Act.

9 "Close friend" means any person 18 years of age or older
10 who has exhibited special care and concern for the patient and
11 who presents an affidavit to the attending physician stating
12 that he or she (i) is a close friend of the patient, (ii) is
13 willing and able to become involved in the patient's health
14 care, and (iii) has maintained such regular contact with the
15 patient as to be familiar with the patient's activities,
16 health, and religious and moral beliefs. The affidavit must
17 also state facts and circumstances that demonstrate that
18 familiarity.

19 "Death" means when, according to accepted medical
20 standards, there is (i) an irreversible cessation of
21 circulatory and respiratory functions or (ii) an irreversible
22 cessation of all functions of the entire brain, including the
23 brain stem.

24 "Decisional capacity" means the ability to understand and
25 appreciate the nature and consequences of a decision regarding
26 medical treatment or forgoing life-sustaining treatment and

1 the ability to reach and communicate an informed decision in
2 the matter as determined by the attending physician.

3 "Forgo life-sustaining treatment" means to withhold,
4 withdraw, or terminate all or any portion of life-sustaining
5 treatment with knowledge that the patient's death is likely to
6 result.

7 "Guardian" means a court appointed guardian of the person
8 who serves as a representative of a minor or as a
9 representative of a person under legal disability.

10 "Health care facility" means a type of health care
11 provider commonly known by a wide variety of titles, including
12 but not limited to, hospitals, medical centers, nursing homes,
13 rehabilitation centers, long term or tertiary care facilities,
14 and other facilities established to administer health care and
15 provide overnight stays in their ordinary course of business
16 or practice.

17 "Health care provider" means a person that is licensed,
18 certified, or otherwise authorized or permitted by the law of
19 this State or licensed in the state where the patient is being
20 treated to administer health care in the ordinary course of
21 business or practice of a profession, including, but not
22 limited to, physicians, nurses, health care facilities, and
23 any employee, officer, director, agent, or person under
24 contract with such a person.

25 "Imminent" (as in "death is imminent") means a
26 determination made by the attending physician according to

1 accepted medical standards that death will occur in a
2 relatively short period of time, even if life-sustaining
3 treatment is initiated or continued.

4 "Life-sustaining treatment" means any medical treatment,
5 procedure, or intervention that, in the judgment of the
6 attending physician, when applied to a patient with a
7 qualifying condition, would not be effective to remove the
8 qualifying condition or would serve only to prolong the dying
9 process. Those procedures can include, but are not limited to,
10 assisted ventilation, renal dialysis, surgical procedures,
11 blood transfusions, and the administration of drugs,
12 antibiotics, and artificial nutrition and hydration.

13 "Minor" means an individual who is not an adult as defined
14 in this Act.

15 "Parent" means a person who is the natural or adoptive
16 mother or father of the child and whose parental rights have
17 not been terminated by a court of law.

18 "Patient" means an adult or minor individual, unless
19 otherwise specified, under the care or treatment of a licensed
20 physician or other health care provider.

21 "Person" means an individual, a corporation, a business
22 trust, a trust, a partnership, an association, a government, a
23 governmental subdivision or agency, or any other legal entity.

24 "Qualifying condition" means the existence of one or more
25 of the following conditions in a patient certified in writing
26 in the patient's medical record by the attending physician and

1 by at least one other qualified physician:

2 (1) "Terminal condition" means an illness or injury
3 for which there is no reasonable prospect of cure or
4 recovery, death is imminent, and the application of
5 life-sustaining treatment would only prolong the dying
6 process.

7 (2) "Permanent unconsciousness" means a condition
8 that, to a high degree of medical certainty, (i) will last
9 permanently, without improvement, (ii) in which thought,
10 sensation, purposeful action, social interaction, and
11 awareness of self and environment are absent, and (iii)
12 for which initiating or continuing life-sustaining
13 treatment, in light of the patient's medical condition,
14 provides only minimal medical benefit.

15 (3) "Incurable or irreversible condition" means an
16 illness or injury (i) for which there is no reasonable
17 prospect of cure or recovery, (ii) that ultimately will
18 cause the patient's death even if life-sustaining
19 treatment is initiated or continued, (iii) that imposes
20 severe pain or otherwise imposes an inhumane burden on the
21 patient, and (iv) for which initiating or continuing
22 life-sustaining treatment, in light of the patient's
23 medical condition, provides only minimal medical benefit.

24 The determination that a patient has a qualifying
25 condition creates no presumption regarding the application or
26 non-application of life-sustaining treatment. It is only after

1 a determination by the attending physician that the patient
2 has a qualifying condition that the surrogate decision maker
3 may consider whether or not to forgo life-sustaining
4 treatment. In making this decision, the surrogate shall weigh
5 the burdens on the patient of initiating or continuing
6 life-sustaining treatment against the benefits of that
7 treatment.

8 "Qualified physician" means a physician licensed to
9 practice medicine in all of its branches in Illinois or a
10 physician licensed in the state where the patient is being
11 treated who has personally examined the patient.

12 "Surrogate decision maker" means an adult individual or
13 individuals who (i) have decisional capacity, (ii) are
14 available upon reasonable inquiry, (iii) are willing to make
15 medical treatment decisions on behalf of a patient who lacks
16 decisional capacity, and (iv) are identified by the attending
17 physician in accordance with the provisions of this Act as the
18 person or persons who are to make those decisions in
19 accordance with the provisions of this Act.

20 (Source: P.A. 95-331, eff. 8-21-07.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.