

**Maine Revised Statutes**  
**Title 18-A: PROBATE CODE**  
**Article :**

**§5-801. DEFINITIONS**

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 378, Pt. A, §1 (NEW).]

(a). "Advance health-care directive" means an individual instruction from, or a power of attorney for health care by, an individual with capacity.

[ 1995, c. 378, Pt. A, §1 (NEW) .]

(b). "Agent" means an individual with capacity designated in a power of attorney for health care to make a health-care decision for the individual granting the power.

[ 1995, c. 378, Pt. A, §1 (NEW) .]

(c). "Capacity" means the ability to have a basic understanding of the diagnosed condition and to understand the significant benefits, risks and alternatives to the proposed health care and the consequences of foregoing the proposed treatment, the ability to make and communicate a health care decision and the ability to understand the consequences of designating an agent or surrogate to make health-care decisions.

[ 1995, c. 378, Pt. A, §1 (NEW) .]

(d). "Guardian" means a judicially appointed guardian or conservator having authority to make a health-care decision for an individual.

[ 1995, c. 378, Pt. A, §1 (NEW) .]

(e). "Health care" means any care, treatment, service or procedure to maintain, diagnose or otherwise affect an individual's physical or mental condition.

[ 1995, c. 378, Pt. A, §1 (NEW) .]

(f). "Health-care decision" means a decision made by an individual with capacity or by the individual's agent, guardian or surrogate, regarding the individual's health care, including:

(1). Selection and discharge of health-care providers and institutions; [1995, c. 378, Pt. A, §1 (NEW).]

(2). Approval or disapproval of diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and [1995, c. 378, Pt. A, §1 (NEW).]

(3). Directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care, including life-sustaining treatment. [1995, c. 378, Pt. A, §1 (NEW).]

[ 1995, c. 378, Pt. A, §1 (NEW) .]

(g). "Health-care institution" means an institution, facility or agency licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business.

[ 1995, c. 378, Pt. A, §1 (NEW) .]

**(h).** "Health-care provider" means an individual licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(i).** "Individual instruction" means a direction from an individual with capacity concerning a health-care decision for the individual.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(j).** "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(k).** "Physician" means an individual authorized to practice medicine under Title 32.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(l).** "Power of attorney for health care" means the designation of an agent with capacity to make health-care decisions for the individual granting the power.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(m).** "Primary physician" means a physician designated by an individual with capacity or by the individual's agent, guardian or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes the responsibility.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(n).** "Reasonably available" means readily able to be contacted without undue effort and willing and able to act in a timely manner considering the urgency of the patient's health-care needs.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(o).** "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or insular possession subject to the jurisdiction of the United States.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(p).** "Supervising health-care provider" means the primary physician or, if there is no primary physician or the primary physician is not reasonably available, the health-care provider who has undertaken primary responsibility for an individual's health care.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

**(q).** "Surrogate" means an individual with capacity, other than a patient's agent or guardian, authorized under this Part to make health care decisions as provided in section 5-805.

[ 1999, c. 411, §1 (AMD) . ]

(r). "Life-sustaining treatment" means any medical procedure or intervention that, when administered to a person without capacity and in either a terminal condition or a persistent vegetative state, will serve only to prolong the process of dying. "Life-sustaining treatment" may include artificially administered nutrition and hydration, which is the provision of nutrients and liquids through the use of tubes, intravenous procedures or similar medical interventions.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

(s). "Persistent vegetative state" means a state that occurs after coma in which the patient totally lacks higher cortical and cognitive function, but maintains vegetative brain stem processes, with no realistic possibility of recovery, as diagnosed in accordance with acceptable medical standards.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

(t). "Terminal condition" means an incurable and irreversible condition that, without the administration of life-sustaining treatment, in the opinion of the primary physician, will result in death within a relatively short time.

[ 1995, c. 378, Pt. A, §1 (NEW) . ]

#### SECTION HISTORY

1995, c. 378, §A1 (NEW). 1999, c. 411, §1 (AMD).

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