

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Clarify the Policy for Withdrawal of Life Support from Minors**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 18-A MRSA §5-819** is enacted to read:

### **§ 5-819. Withholding and withdrawal of life-sustaining treatment for minors**

**(a).** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

(1). "Attending physician" means the physician who has primary responsibility for the medical care and treatment of a minor.

(2). "Authorized legal surrogate" means the person or persons with legal custody of a minor and with the authority to make legal medical decisions for that minor, including that minor's parent or parents. "Authorized legal surrogate" does not include a legal guardian or a state agency or representative for a minor when the minor's parents' full parental rights have not been permanently terminated.

(3). "Communication" means an in-person or telephone conversation, a message such as a voicemail or a letter or other written communication including e-mail.

(4). "Health care facility" means a hospital or ambulatory surgical center licensed under Title 22, chapter 405.

(5). "Life-sustaining treatment" means the short-term or long-term use of a medical device or procedure, drugs, surgery or therapy that uses mechanical or other artificial means to sustain, restore or supplant a vital bodily function, the withholding of which is more likely than not to lead to severe physical harm or death. "Life-sustaining treatment" does not include the provision of nutrition and hydration.

(6). "Minor" means a person under 18 years of age.

(7). "Physician" means a person licensed under Title 32, chapter 36 or 48 to practice medicine in the State as a medical or osteopathic physician.

**(b).** A physician may withhold or withdraw life-sustaining treatment for a minor, institute a do-not-resuscitate order for a minor or take other action that is more likely than not to lead to severe physical harm or death of a minor only if the authorized legal surrogate for the minor gives direction in writing. Before giving a direction under this subsection, the authorized legal surrogate shall consult with the minor's attending physician and follow all procedures required by the health care facility. The authorized legal surrogate shall also obtain a 2nd opinion from another physician with adequate expertise

and experience of the minor's diagnosis, prognosis and risks and the probable result of the proposed action and available alternatives. The authorized legal surrogate may rescind the direction at any time by a communication, which takes effect upon receipt, to the attending physician or health care facility.

## **SUMMARY**

This bill authorizes a physician to withhold or withdraw life sustaining treatment for a minor or institute a do-not-resuscitate order for a minor only if the authorized legal surrogate for the minor gives direction in writing. This bill specifies that an "authorized legal surrogate" does not include a legal guardian or state agency or representative for a minor when the minor's parents' full parental rights have not been terminated.