

**MAINE**  
**"An Act Regarding Patient-directed Care at the End of Life"**  
**LD 1065**

*LD 1065 would add a new subsection (§2908) to MRSA 24, Chapter 21, Subchapter 5, the Maine Health Security Act's General Provisions.*

*It is a physician-assisted suicide bill masquerading as a bill for "end-of-life care." Unlike other such bills and the laws in Oregon and Washington, it does not contain any purported "safeguards."*

*Essentially, the bill would permit a doctor to order or deliver drugs to end a patient's life as long as the patient – who may have dementia or who is being coerced<sup>1</sup> – has signed an "end-of-life care document."*

**ANALYSIS**

**LD 1065 appears to permit patients to sign a document related to three aspects of their care. However, the bill only addresses one new type of "care." It is "care" that permits a doctor to order or deliver drugs that will result in the patient's death.**

According to the measure's official summary, "the bill authorizes a patient who is terminally ill and the patient's physician or the medical director of the patient's hospice care provider to sign companion documents that will guide the provision of health care to the patient and the provision of care at the end of life."

The patient's document, called an "end-of-life care document," is described as a reflection of a patient's decisions regarding three aspects of care. Those decisions are:

1. **To reject curative or life-extending care.**<sup>2</sup>  
This portion of the bill is unnecessary.

Patients can already reject curative or life-extending care either at the time such care would be administered or through an advance directive under the Maine Uniform Health-Care Decisions Act.

2. **To accept palliative care.**<sup>3</sup>  
This portion is also unnecessary.

Patients can already accept palliative care either at the time such care would be administered or through an advance directive under the Maine Uniform Health-Care Decisions Act.

3. **To accept care that is ordered or delivered by a physician that may hasten or bring about the patient's death.<sup>4</sup>**

If this refers to treatment that is ordered or delivered to treat the patient's condition or symptoms and which possibly could, as an unintended side effect, lead to a patient's death, it would also be unnecessary.

Every day, with their informed consent, patients undergo risky surgeries, other medical procedures or take medication that poses unintended, but possible risks.

However, this subsection *does not apply only to such situations*. Rather, it applies to "care" that may "hasten or bring about the patient's death" without any requirement that such "care" has a legitimate purpose. The effect, hastening or bringing about the patient's death, appears to be the purpose of the bill.

**LD 1065 provides doctors with immunity from civil or criminal liability for a patient's death resulting from the ordered or delivered "care."**

The fact that a physician who signed the "physician document" – in conjunction with the patient's signed "end of life document" – is immune from civil or criminal liability for the patient's death<sup>5</sup> highlights the fact that the purpose of this bill is to permit what is also known as physician-assisted suicide or doctor-prescribed suicide.

**LD 1065 provides a broad range of eligibility for patients who would qualify for "care" under the proposal.**

To be eligible to sign an "end-of-life document" the patient is to be "terminally ill" and have a "limited life expectancy."<sup>6</sup> This broad eligibility is more vague and elastic than other definitions of "terminally ill" in Maine.<sup>7</sup>

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<sup>1</sup> This has happened under Oregon's assisted-suicide law. According to the *Oregonian*, a woman who died under that law was provided with the lethal prescription even though she was suffering from early dementia and after a psychiatrist indicated that the woman's daughter was being "somewhat coercive." [Erin Barnett, "A family struggle: Is Mom capable of choosing to die?" *Oregonian*, Oct. 17, 1999]

<sup>2</sup> §2908, 3, A, (1).

<sup>3</sup> §2908, 3, A, (2).

<sup>4</sup> §2908, 3, A, (3).

<sup>5</sup> §2908, 5.

<sup>6</sup> §2908, 1, D.

<sup>7</sup> "Person who is terminally ill" means a person that has a medical prognosis that the person's life expectancy is 12 months or less if the illness runs its normal course.

[Maine Insurance Code, Chapter 33: Health Insurance Contracts §2759 (1) (B)]

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"Person who is terminally ill" means a person that has a medical prognosis that the person's life expectancy is 12 months or less if the illness runs its normal course.

[Maine Insurance Code, Chapter 35: Group and blanket health insurance §2847-J (1) (B)]

"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.

[MRS, Title 18 A, Article 5, Part 7, §5-801 (t)]

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