

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Health - General

5-602.

(a) Any competent individual may, at any time, make a written advance directive regarding the provision of health care to that individual, or the withholding or withdrawal of health care from that individual.

(b) (1) IN THIS SUBSECTION, "DISQUALIFIED PERSON" MEANS:

(I) AN OWNER, OPERATOR, OR EMPLOYEE OF A HEALTH CARE FACILITY FROM WHICH THE DECLARANT IS RECEIVING HEALTH CARE; OR

(II) A SPOUSE, PARENT, CHILD, OR SIBLING OF AN OWNER, OPERATOR, OR EMPLOYEE OF A HEALTH CARE FACILITY FROM WHICH THE DECLARANT IS RECEIVING HEALTH CARE.

[(1)](2) Any competent individual may, at any time, make a written advance directive appointing an agent to make health care decisions for the individual under the circumstances stated in the advance directive.

[(2)](3) [An owner, operator, or employee of a health care facility from which the declarant is receiving health care] A DISQUALIFIED PERSON may not serve as a health care agent unless the person ~~would~~:

(I) WOULD qualify as a surrogate decision maker under § 5-605(a) of this subtitle; OR

(II) WAS APPOINTED BY THE DECLARANT BEFORE THE DATE ON WHICH THE DECLARANT RECEIVED, OR CONTRACTED TO RECEIVE, HEALTH CARE FROM THE FACILITY.

[(3)](4) An agent appointed under this subtitle has decision making priority over any individuals otherwise authorized under this subtitle to make health care decisions for a declarant.

(c) (1) A written advance directive shall be dated, signed by or at the express direction of the declarant, and subscribed by two witnesses.

(2) (i) Except as provided in items (ii) and (iii) of this paragraph, any competent individual may serve as a witness to an advance directive, including an employee of a health care facility or physician caring for the declarant if acting in good faith.

(ii) The health care agent of the declarant may not serve as a witness.

(iii) At least one of the witnesses must be an individual who is not knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any financial benefit by reason of the death of the declarant.