

SENATE BILL 221

J1, J3
SB 355/08 – FIN

9lr1798

By: **Senator Lenett**

Introduced and read first time: January 23, 2009

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 28, 2009

CHAPTER _____

1 AN ACT concerning

2 **Health Care Facilities – Disclosures – Use of Life–Sustaining Procedures**

3 FOR the purpose of requiring certain health care facilities to provide certain
4 information concerning the right to make certain decisions about health care
5 and the availability of hospice care, request a copy of existing advance directives
6 under specified circumstances, and inform certain individuals or proxy decision
7 makers about certain facility procedures; requiring a health care facility to
8 disclose the facility’s policy on honoring advance directive provisions in a certain
9 manner; requiring an admitting physician at a health care facility to inform an
10 individual or an individual’s proxy decision maker of the facility’s policy on
11 honoring advance directive provisions under certain circumstances; requiring
12 the State Advisory Council on Quality Care at the End of Life to consult with
13 certain groups before developing and making publicly available certain
14 resources; defining certain terms; providing for a delayed effective date for
15 certain provisions of this Act; and generally relating to the provision of
16 information by health care facilities on an individual’s admission to a facility.

17 BY renumbering

18 Article – Health – General

19 Section 5–615(c)

20 to be Section ~~5–615(d)~~ 5–615(e)

21 Annotated Code of Maryland

22 (2005 Replacement Volume and 2008 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 5–615(a)
 2 Annotated Code of Maryland
 3 (2005 Replacement Volume and 2008 Supplement)

4 BY repealing
 5 Article – Health – General
 6 Section 5–615(b)
 7 Annotated Code of Maryland
 8 (2005 Replacement Volume and 2008 Supplement)

9 BY adding to
 10 Article – Health – General
 11 Section 5–615(b) ~~and (c), (c), and (d)~~
 12 Annotated Code of Maryland
 13 (2005 Replacement Volume and 2008 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That Section(s) 5–615(c) of Article – Health – General of the Annotated
 16 Code of Maryland be renumbered to be Section(s) ~~5–615(d)~~ 5–615(e).

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 18 read as follows:

19 **Article – Health – General**

20 5–615.

21 (a) (1) In this section[, “health care facility” has the meaning stated in §
 22 19–114 of this article] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

23 (2) **“HEALTH CARE FACILITY” HAS THE MEANING STATED IN §**
 24 **19–114 OF THIS ARTICLE.**

25 (3) **“PROXY DECISION MAKER” MEANS A HEALTH CARE AGENT OR**
 26 **SURROGATE DECISION MAKER AUTHORIZED TO MAKE HEALTH CARE DECISIONS**
 27 **ON BEHALF OF AN INDIVIDUAL UNDER THIS SUBTITLE.**

28 [(b) Each health care facility shall provide each individual on admittance to
 29 the facility information concerning the rights of the individual to make decisions
 30 concerning health care, including the right to accept or refuse treatment, and the right
 31 to make an advance directive, including a living will.]

32 (B) **IF AN INDIVIDUAL WHO IS CAPABLE OF MAKING AN INFORMED**
 33 **DECISION IS ADMITTED TO A HEALTH CARE FACILITY, THE FACILITY SHALL:**

34 (1) **PROVIDE THE INDIVIDUAL WITH INFORMATION ON ~~THE~~:**

1 **(I) THE RIGHT OF THE INDIVIDUAL TO MAKE DECISIONS**
2 **CONCERNING HEALTH CARE, INCLUDING THE RIGHT TO ACCEPT OR REFUSE**
3 **TREATMENT, AND A STATEMENT THAT THE INFORMATION PROVIDED IS**
4 **REQUIRED BY LAW AND IS NOT INTENDED TO BE MEDICAL ADVICE; AND**

5 **(II) THE LOCAL HOSPICE PROGRAM, INCLUDING THE**
6 **TELEPHONE NUMBER OF THE PROGRAM;**

7 **(2) REQUEST FROM THE INDIVIDUAL A COPY OF ANY EXISTING**
8 **ADVANCE DIRECTIVE MADE BY THE INDIVIDUAL;**

9 **(3) IF THE INDIVIDUAL DOES NOT HAVE AN ADVANCE DIRECTIVE,**
10 **INFORM THE INDIVIDUAL OF THE RIGHT TO MAKE AN ADVANCE DIRECTIVE,**
11 **INCLUDING A LIVING WILL; AND**

12 **(4) INFORM THE INDIVIDUAL OF THE FACILITY'S POLICIES AND**
13 **PROCEDURES CONCERNING:**

14 **(I) IMPLEMENTATION OF AN ADVANCE DIRECTIVE; AND**

15 **(II) THE USE OF CARDIOPULMONARY RESUSCITATION AND**
16 **“DO NOT RESUSCITATE” ORDERS.**

17 **(C) IF AN INDIVIDUAL WHO IS INCAPABLE OF MAKING AN INFORMED**
18 **DECISION IS ADMITTED TO A HEALTH CARE FACILITY, THE FACILITY SHALL:**

19 **(1) PROVIDE THE PROXY DECISION MAKER WITH INFORMATION**
20 **ON ~~THE~~:**

21 **(I) THE RIGHT OF THE PROXY DECISION MAKER TO MAKE**
22 **DECISIONS CONCERNING HEALTH CARE FOR THE INDIVIDUAL, INCLUDING THE**
23 **RIGHT TO ACCEPT OR REFUSE TREATMENT, AND A STATEMENT THAT THE**
24 **INFORMATION PROVIDED IS REQUIRED BY LAW AND IS NOT INTENDED TO BE**
25 **MEDICAL ADVICE; AND**

26 **(II) THE LOCAL HOSPICE PROGRAM, INCLUDING THE**
27 **TELEPHONE NUMBER OF THE PROGRAM;**

28 **(2) REQUEST FROM THE PROXY DECISION MAKER A COPY OF ANY**
29 **EXISTING ADVANCE DIRECTIVE MADE BY THE INDIVIDUAL OR ON BEHALF OF**
30 **THE INDIVIDUAL; AND**

31 **(3) INFORM THE PROXY DECISION MAKER OF THE FACILITY'S**
32 **POLICIES AND PROCEDURES CONCERNING:**

1 (I) IMPLEMENTATION OF AN ADVANCE DIRECTIVE; AND

2 (II) THE USE OF CARDIOPULMONARY RESUSCITATION AND
3 “DO NOT RESUSCITATE” ORDERS.

4 (D) (1) A HEALTH CARE FACILITY SHALL DISCLOSE ITS POLICY ON
5 HONORING ADVANCE DIRECTIVE PROVISIONS ON THE FACILITY’S WEBSITE AND
6 THE MARYLAND HEALTH CARE COMMISSION’S WEBSITE.

7 (2) FOR A PLANNED ADMISSION TO A HEALTH CARE FACILITY,
8 BEFORE AN INDIVIDUAL IS ADMITTED, THE ADMITTING PHYSICIAN SHALL
9 INFORM THE INDIVIDUAL OR THE INDIVIDUAL’S PROXY DECISION MAKER OF
10 THE FACILITY’S POLICY ON HONORING ADVANCE DIRECTIVE PROVISIONS.

11 SECTION 3. AND BE IT FURTHER ENACTED, That the State Advisory
12 Council on Quality Care at the End of Life, after consultation with the Health
13 Facilities Association of Maryland, the Hospice and Palliative Care Network of
14 Maryland, the Maryland Hospital Association, Mid-Atlantic LifeSpan, and other
15 appropriate groups, shall review the information sheet under § 5-615(c) § 5-615(e) of
16 the Health – General Article, as enacted by Section 1 of this Act, to determine whether
17 changes should be recommended to the Department of Health and Mental Hygiene. In
18 conducting this review, the State Advisory Council shall also consider the development
19 of model language, checklists, points to consider, references to published materials, or
20 other information that the State Advisory Council considers helpful to facilitate
21 patient-centered decision making about life-sustaining procedures. To the extent
22 feasible, these resources shall take account of relevant differences among types of
23 health care facilities or time constraints on decision making.

24 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this
25 Act shall take effect January 1, 2010.

26 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
27 Section 4 of this Act, this Act shall take effect June 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.