

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 546
Finance

(Senator Forehand, *et al.*)

Health - End-of-Life Care Options - Counseling

This bill requires health care providers diagnosing a patient with an end-of-life condition to inform the patient or proxy of the patient's right to receive counseling regarding end-of-life condition care. Counseling has to include the information specified in the bill and can be provided by the diagnosing health care provider, a hospice provider, or other health care provider. A diagnosing health care provider who does not wish to personally provide counseling still has to inform the patient or proxy, make a referral to another health care provider, and provide information on how to transfer to another provider.

Fiscal Summary

State Effect: The Department of Health and Mental Hygiene (DHMH) can ensure compliance with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "End-of-life" condition means an end-stage condition, a persistent vegetative state, or a terminal condition.

End-of-life counseling may not encourage or condone mercy killing, euthanasia, or any affirmative or deliberate act or omission to end life other than to permit the natural dying process. Likewise, it cannot encourage or condone the withdrawal of life-sustaining

procedures based in whole or in part on the patient's preexisting, long-term mental health or physical disability, or a patient's economic disadvantage.

Current Law: A proxy is an individual authorized to make health care decisions for a patient.

End-stage condition means an advanced, progressive, irreversible condition caused by injury, disease, or illness. Persistent vegetative state means a condition caused by injury, disease, or illness in which a patient has lost consciousness, exhibiting no behavioral evidence of self-awareness or awareness of surroundings in a learned manner other than reflex activity of muscles and nerves for low level conditioned response and from which, after the passage of a medically appropriate period of time, it can be determined, to a reasonable degree of medical certainty, that there can be no recovery. A terminal condition is an incurable condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, makes death imminent and from which there can be no recovery.

The federal Patient Self-Determination Act of 1990 requires health care providers to inform all adult patients about the right to accept or refuse medical or surgical treatment and the right to execute an "advance directive." An advance directive is a written instruction, such as a living will or durable power of attorney, for health care when the individual is incapacitated.

In Maryland, advance directives allow an individual to select a health care agent, give health care instructions, or both. An advance directive that appoints a health care agent allows the agent to make all health care decisions for an individual, subject to any limitations specified on the directive. An advance medical directive specifies health care instructions in the event an individual cannot make an informed decision regarding health care.

Background: According to DHMH, some hospitals in the State currently provide terminal condition counseling.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2009
ncs/mwc

Analysis by: Sarah K. Volker

Direct Inquiries to:
(410) 946-5510
(301) 970-5510