
By: Senator Middleton

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Decisions - Emergency Medical Services Personnel - Liability Immunity**

3 FOR the purpose of authorizing a certain additional immunity from criminal or civil
4 liability for emergency medical services personnel for the provision of health care by
5 these personnel under certain circumstances; providing that emergency medical
6 services personnel may not be deemed to have engaged in certain unprofessional
7 conduct under certain circumstances; and generally relating to the provision of
8 health care by emergency medical services personnel.

9 BY repealing and reenacting, with amendments,
10 Article - Health - General
11 Section 5-608
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1996 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - Health - General
16 Section 5-609
17 Annotated Code of Maryland
18 (1994 Replacement Volume and 1996 Supplement)

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

21 **Article - Health - General**

22 5-608.

23 (a) (1) Certified emergency medical services personnel shall be directed by
24 protocol to follow emergency medical services "do not resuscitate orders" pertaining to
25 adult patients in the outpatient setting in accordance with protocols established by the
26 Maryland Institute for Emergency Medical Services Systems in conjunction with the State
27 Board of Physician Quality Assurance.

28 (2) Emergency medical services "do not resuscitate orders" may not
29 authorize the withholding of medical interventions, or therapies deemed necessary to
30 provide comfort care or to alleviate pain.

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1 (b) This section does not authorize emergency medical SERVICES personnel to
2 follow an emergency medical services "do not resuscitate order" for any patient who,
3 prior to cardiac or respiratory arrest, is able to, and does, express to those personnel the
4 desire to be resuscitated.

5 (c) This section does not authorize emergency medical services personnel in the
6 outpatient setting to follow an emergency medical services "do not resuscitate order" that
7 is in any form other than:

8 (1) An emergency medical services "do not resuscitate order" described in
9 subsection (a) of this section;

10 (2) An oral emergency medical services "do not resuscitate order" provided
11 by an on-line, emergency medical services medical command and control physician; or

12 (3) An oral emergency medical services "do not resuscitate order" provided
13 by a physician, as defined in § 5-601 of this subtitle, who is physically present on the scene
14 with the patient and the emergency medical services personnel in the outpatient setting.

15 (D) IN ADDITION TO THE IMMUNITY PROVIDED IN § 5-609 OF THIS SUBTITLE
16 AND ANY OTHER IMMUNITY PROVIDED BY LAW, AN EMERGENCY MEDICAL
17 SERVICES PROVIDER IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY, OR
18 DEEMED TO HAVE ENGAGED IN UNPROFESSIONAL CONDUCT AS DETERMINED BY
19 THE APPROPRIATE LICENSING OR CERTIFYING AUTHORITY, ARISING OUT OF A
20 CLAIM CONCERNING THE PROVISION OF HEALTH CARE IF:

21 (1) THE CLAIM IS BASED ON LACK OF CONSENT OR AUTHORIZATION
22 FOR THE HEALTH CARE;

23 (2) SUBSECTION (A) OF THIS SECTION WOULD ORDINARILY APPLY; AND

24 (3) THE EMERGENCY MEDICAL SERVICES PROVIDER:

25 (I) ACTS IN GOOD FAITH IN PROVIDING THE HEALTH CARE; AND

26 (II) BELIEVES REASONABLY THAT SUBSECTION (A)(1) OF THIS
27 SECTION DOES NOT APPLY.

28 5-609.

29 (a) (1) A health care provider is not subject to criminal prosecution or civil
30 liability or deemed to have engaged in unprofessional conduct as determined by the
31 appropriate licensing authority as a result of withholding or withdrawing any health care
32 under authorization obtained in accordance with this subtitle.

33 (2) A health care provider providing, withholding, or withdrawing treatment
34 under authorization obtained under this subtitle does not incur liability arising out of any
35 claim to the extent the claim is based on lack of consent or authorization for the action.

36 (b) A person who authorizes the provision, withholding, or withdrawal of
37 life-sustaining procedures in accordance with a patient's advance directive or as
38 otherwise provided in this subtitle is not subject to:

39 (1) Criminal prosecution or civil liability for that action; or

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1 (2) Liability for the cost of treatment solely on the basis of that
2 authorization.

3 (c) (1) The provisions of this section shall apply unless it is shown by a
4 preponderance of the evidence that the person authorizing or effectuating the provision,
5 withholding, or withdrawal of life-sustaining procedures in accordance with this subtitle
6 did not, in good faith, comply with the provisions of this subtitle.

7 (2) The distribution to patients of written advance directives in a form
8 provided in this subtitle and assistance to patients in the completion and execution of
9 such forms does not constitute the unauthorized practice of law.

10 (d) An advance directive made in accordance with this subtitle shall be presumed
11 to have been made voluntarily by a competent individual. Authorization for the provision,
12 withholding or withdrawal of life-sustaining procedures in accordance with this subtitle
13 shall be presumed to have been made in good faith.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 1997.