
By: Senator Middleton

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 1997

CHAPTER ____

1 AN ACT concerning

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

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

2

1 **Article - Health - General**

2 5-608.

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

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

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

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

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

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

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

25 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN
26 ADDITION TO THE IMMUNITY PROVIDED IN § 5-609 OF THIS SUBTITLE AND ANY
27 OTHER IMMUNITY PROVIDED BY LAW, AN EMERGENCY MEDICAL SERVICES
28 PROVIDER IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY, OR DEEMED TO HAVE
29 ENGAGED IN UNPROFESSIONAL CONDUCT AS DETERMINED BY THE APPROPRIATE
30 LICENSING OR CERTIFYING AUTHORITY, ARISING OUT OF A CLAIM CONCERNING
31 THE PROVISION OF HEALTH CARE IF:

32 ~~(1)~~ (I) THE CLAIM IS BASED ON LACK OF CONSENT OR
33 AUTHORIZATION FOR THE HEALTH CARE;

34 ~~(2)~~ (II) SUBSECTION (A) OF THIS SECTION WOULD ORDINARILY APPLY;
35 AND

36 ~~(3)~~ (III) THE EMERGENCY MEDICAL SERVICES PROVIDER:

37 ~~(1)~~ 1. ACTS IN GOOD FAITH IN PROVIDING THE HEALTH CARE;
38 AND

39 ~~(2)~~ 2. BELIEVES REASONABLY THAT SUBSECTION (A)(1) OF THIS
40 SECTION DOES NOT APPLY.

3

1 (2) THIS SUBSECTION DOES NOT APPLY IF THE PATIENT IS WEARING A
2 VALID, LEGIBLE, AND PATIENT-IDENTIFYING EMERGENCY MEDICAL SERVICES "DO
3 NOT RESUSCITATE ORDER" IN BRACELET FORM.

4 5-609.

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

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

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

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

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

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

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

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

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