

HOUSE BILL 752

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J3

2001 Regular Session
(11r2372)

ENROLLED BILL

-- Environmental Matters/Economic and Environmental Affairs --

Introduced by **Delegates Rosenberg, Eckardt, Schisler, Goldwater, and Guns**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Mental Hygiene Law - Advance Directives**

3 FOR the purpose of requiring that an administrative head of a residential facility
4 providing treatment or services to individuals with mental disorders who
5 releases an individual from the facility notify the individual of the advisability
6 of ~~developing~~ *making* an advance directive for mental health services; requiring
7 that the facility assist the individual in ~~developing~~ *making* the advance directive
8 if the individual requests assistance or refer the individual to an appropriate
9 community resource for assistance in ~~developing~~ *making* an advance directive;
10 requiring the administrative head of the facility, when referring an individual to
11 a community resource, to notify the community resource of certain information
12 that is not confidential; *providing for the making of an advance directive to*
13 *govern the provision of mental health services; specifying the procedures*
14 *applicable to the making and revocation of an advance directive for mental*
15 *health services; authorizing the inclusion of certain provisions in a certain*
16 *advance directive; requiring the Department of Health and Mental Hygiene to*
17 *provide certain training and information;* providing for a delayed effective date;

1 and generally relating to advance directives for mental health services.

2 *BY adding to*

3 *Article - Health - General*

4 *Section 5-602.1*

5 *Annotated Code of Maryland*

6 *(2000 Replacement Volume)*

7 BY repealing and reenacting, with amendments,

8 Article - Health - General

9 Section 10-809(b)

10 Annotated Code of Maryland

11 (2000 Replacement Volume)

12 Preamble

13 WHEREAS, Some people with a mental disorder require ongoing mental health
14 services, including treatment with psychotropic medications, in order to live safely in
15 the community; and

16 WHEREAS, Some people who require ongoing mental health services
17 experience periods when their symptoms worsen and they become incapable of
18 making an informed decision about services and may discontinue needed services;
19 and

20 WHEREAS, An advance directive for health care allows an individual, when
21 capable of making an informed decision about health care, to specify services he or
22 she would wish to receive if he or she became incapable of making such a decision in
23 the future or to authorize an agent to make health care decisions on the individual's
24 behalf in such a circumstance; and

25 WHEREAS, A legislative study that examined mechanisms for promoting
26 consumer participation in mental health services recommended that efforts be made
27 to afford individuals with a mental disorder an opportunity to execute an advance
28 directive for mental health services; now, therefore,

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

31 **Article - Health - General**

32 5.602.1.

33 (A) IN THIS SECTION, "MENTAL HEALTH SERVICES" HAS THE MEANING
34 STATED IN § 4-301(I)(1) OF THIS ARTICLE.

35 (B) AN INDIVIDUAL WHO IS COMPETENT MAY MAKE AN ADVANCE DIRECTIVE
36 TO OUTLINE THE MENTAL HEALTH SERVICES WHICH MAY BE PROVIDED TO THE

1 INDIVIDUAL IF THE INDIVIDUAL BECOMES INCOMPETENT AND HAS A NEED FOR
 2 MENTAL HEALTH SERVICES EITHER DURING, OR AS A RESULT OF, THE
 3 INCOMPETENCY.

4 (C) (1) AN INDIVIDUAL MAKING AN ADVANCE DIRECTIVE FOR MENTAL
 5 HEALTH SERVICES SHALL FOLLOW THE PROCEDURES FOR MAKING AN ADVANCE
 6 DIRECTIVE PROVIDED UNDER § 5-602 OF THIS SUBTITLE.

7 (2) THE PROCEDURES PROVIDED UNDER § 5-604 OF THIS SUBTITLE FOR
 8 THE REVOCATION OF AN ADVANCE DIRECTIVE SHALL APPLY TO THE REVOCATION
 9 OF AN ADVANCE DIRECTIVE FOR MENTAL HEALTH SERVICES.

10 (D) AN ADVANCE DIRECTIVE FOR MENTAL HEALTH SERVICES MAY INCLUDE:

11 (1) THE DESIGNATION OF AN AGENT TO MAKE MENTAL HEALTH
 12 SERVICES DECISIONS FOR THE DECLARANT;

13 (2) THE IDENTIFICATION OF MENTAL HEALTH PROFESSIONALS,
 14 PROGRAMS, AND FACILITIES THAT THE DECLARANT WOULD PREFER TO PROVIDE
 15 MENTAL HEALTH SERVICES;

16 (3) A STATEMENT OF MEDICATIONS PREFERRED BY THE DECLARANT
 17 FOR PSYCHIATRIC TREATMENT; AND

18 (4) INSTRUCTION REGARDING THE NOTIFICATION OF THIRD PARTIES
 19 AND THE RELEASE OF INFORMATION TO THIRD PARTIES ABOUT MENTAL HEALTH
 20 SERVICES PROVIDED TO THE DECLARANT.

21 10-809.

22 (b) (1) Except as otherwise provided in this section, before a facility releases
 23 an individual who has been accepted as a resident in the facility, the administrative
 24 head of the facility or a designee of the administrative head shall:

25 [(1)] (I) Prepare a written aftercare plan for the individual; [and]

26 [(2)] (II) With the consent of the individual send the plan to the
 27 treatment program in the community that the individual chooses; AND

28 (III) NOTIFY THE INDIVIDUAL OF THE ADVISABILITY OF
 29 ~~DEVELOPING~~ MAKING AN ADVANCE DIRECTIVE FOR MENTAL HEALTH SERVICES, AS
 30 PROVIDED UNDER § 5-602.1 OF THIS ARTICLE.

31 (2) IF THE INDIVIDUAL REQUESTS ASSISTANCE IN ~~DEVELOPING~~
 32 MAKING AN ADVANCE DIRECTIVE FOR MENTAL HEALTH SERVICES, THE FACILITY
 33 SHALL ASSIST THE INDIVIDUAL IN ~~DEVELOPING~~ MAKING THE ADVANCE DIRECTIVE
 34 OR REFER THE INDIVIDUAL TO AN APPROPRIATE COMMUNITY RESOURCE TO ASSIST
 35 THE INDIVIDUAL IN ~~DEVELOPING~~ MAKING AN THE ADVANCE DIRECTIVE.

1 (3) WHEN THE ADMINISTRATIVE HEAD OF THE FACILITY OR THE
2 DESIGNEE OF THE ADMINISTRATIVE HEAD REFERS THE INDIVIDUAL TO AN
3 APPROPRIATE COMMUNITY RESOURCE UNDER PARAGRAPH (2) OF THIS SUBSECTION,
4 THE ADMINISTRATIVE HEAD OR DESIGNEE SHALL NOTIFY THE COMMUNITY
5 RESOURCE OF THE NAME OF AND OTHER AVAILABLE NONCONFIDENTIAL
6 IDENTIFYING INFORMATION ABOUT THE INDIVIDUAL THAT HAS BEEN REFERRED TO
7 THE COMMUNITY RESOURCE AND OF THE INDIVIDUAL'S INTEREST IN DEVELOPING
8 MAKING AN ADVANCE DIRECTIVE FOR MENTAL HEALTH SERVICES.

9 (4) THE DEPARTMENT SHALL PROVIDE TRAINING, SAMPLE FORMS, AND
10 INFORMATION ON ADVANCE DIRECTIVES FOR MENTAL HEALTH SERVICES TO ASSIST
11 FACILITIES IN COMPLIANCE WITH THIS SECTION.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2002.