

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 231

(Delegate Morhaim, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Task Force to Study Increasing the Completion and Use of Advance Directives

This bill establishes a 15-member Task Force to Study Increasing the Completion and Use of Advance Directives. The task force must study and make recommendations on: (1) methods to increase the completion rate of advance directives; (2) barriers to obtaining and completing advance directives; (3) problems in gaining recognition and acknowledgement of advance directives; (4) problems related to completion and use of advanced directives by certain individuals; (5) the surrogate decision maker's role in the completion of an advance directive; and (6) compliance with federal and State law related to advance directives. The Office of the Attorney General will provide staff support. The task force must issue an interim report on its findings and recommendations by December 31, 2003 and a final report to the Governor and the General Assembly by December 31, 2004.

The bill takes effect June 1, 2003 and terminates December 31, 2004.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for the Attorney General are assumed to be minimal and absorbable within existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The federal Patient Self-Determination Act (PSDA) of 1990 requires health care providers to inform all adult patients about their rights 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 permit an individual to select a health care agent, give health care instructions, or both. An advance directive that appoints a health care agent permits the agent to make all health care decisions for an individual, subject to any limitations specified in writing on the directive. An advance medical directive specifies health care instructions in the event an individual cannot make an informed decision regarding health care. The advance directives must be signed by two witnesses, at least one of whom cannot financially benefit by reason of the individual’s death.

Background: Advance directives are designed to accomplish a number of functions. They protect an individual’s right to choose or to refuse various forms of health care, even in the face of the development of decisional incapacity. They provide additional assurance that the care provided for an incompetent patient will actually match that patient’s personal values. They transfer a critical health care decision point from the time of a patient’s decisional incapacity to an earlier time when the person is fully competent.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): U.S. Department of Health and Human Services (Agency for Health Care Policy and Research); Partnership for Caring, Inc.; Department of Health and Mental Hygiene (Medicaid); Department of Legislative Services

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