

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 352

(Senator Hollinger)

Education, Health, and Environmental Affairs

Health and Government Operations

**Health Care Decisions - "Patient's Plan of Care" Form - Communication of
Patient Preferences**

This bill requires the Office of the Attorney General (OAG) to develop a “patient’s plan of care” form suitable for reflecting an individual’s preferences for treatment and care, including the use of life-sustaining procedures and the transfer to a hospital from a nonhospital setting.

Fiscal Summary

State Effect: The bill’s requirements could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The voluntary form must be consistent with the decisions of: (1) the patient, if competent, or a patient’s health care agent or surrogate decision maker, if the patient cannot make an informed decision; and (2) any advance directive of the patient if the patient is incapable of making an informed decision. It may be completed by a health care provider under the direction of an attending physician. The attending physician and the patient or the patient’s health care agent or surrogate decision maker must sign the form. The form must be dated and must include a statement that it may be reviewed, modified, or rescinded at any time. It must indicate under what conditions it must be reviewed or modified. The form must include a conspicuous statement that the original

form accompanies the individual when the individual is transferred to another health care provider or is discharged. In complying with a completed form's requirements, a health care provider must review a form received from another provider.

In developing the form, OAG must consult with the Department of Health and Mental Hygiene and other interested parties.

Upon admission, a facility must offer a resident an opportunity to prepare a "patient's plan of care" form. If a form is completed, it must stay in the front of a patient's medical records. If an individual's care is transferred from one health care provider to another, the transferring health care provider may prepare a "patient's plan of care" form.

Current Law: Any competent individual may make a written advance directive regarding providing, withholding, or withdrawing health care. Any competent individual may make an oral advance directive to authorize providing, withholding, or withdrawing any life-sustaining procedure or to appoint an agent to make health care decisions for the individual. An emergency medical services "do not resuscitate order" means a physician's written order which, in the event of a patient's cardiac or respiratory arrest, authorizes certified or licensed emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation, endotracheal intubation, other advanced airway management techniques, artificial ventilation, defibrillation, and other related life-sustaining procedures.

A health care provider, other than certified or licensed emergency medical services personnel, may provide, withhold, or withdraw treatment in accordance with an emergency medical services "do not resuscitate order" if the provider sees either the order or a valid, legible, and patient identifying order in bracelet form. These orders may not authorize withholding medical interventions or therapies necessary to provide comfort or alleviate pain.

A health care provider is not subject to criminal prosecution or civil liability or deemed to have engaged in unprofessional conduct for withholding or withdrawing any health care under the Health Care Decisions Act.

Background: The bill authorizes the creation of a standardized written format for what currently takes place orally upon every admission to a facility.

State Fiscal Effect: The costs associated with OAG developing the form would be minimal.

Additional Information

Prior Introductions: None.

Cross File: HB 556 (Delegates Morhaim and Boutin) – Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene; Office of the Attorney General; Center for Ethics in Health Care, Oregon Health & Science University; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2004
lc/jr Revised - Senate Third Reader - March 29, 2004

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