

BY: Delegate Shank

AMENDMENTS TO HOUSE BILL NO. 1021, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

Strike the Health and Government Operations Committee Amendments (HB1021/406883/1) in their entirety.

AMENDMENT NO. 2

On page 1 of the bill, strike line 2 in its entirety and substitute:

“Public Power of Attorney - Medical Decision Making

FOR the purpose of requiring the Office of the Attorney General, in consultation with the Department of Health and Mental Hygiene, to develop certain power of attorney forms; requiring the Office of the Attorney General to make the forms available on the Office’s website; requiring the Secretary of Health and Mental Hygiene to make the forms available on the Department’s website; requiring the forms to be mailed to the Secretary of Health and Mental Hygiene in a certain manner; providing that a certain power of attorney form shall authorize an individual to make certain health care decisions, visit a certain individual in a health care facility, and make certain decisions regarding the death of a certain individual; requiring a certain power of attorney form to contain certain information and be notarized; requiring the Secretary of Health and Mental Hygiene to register certain forms in a certain manner and to return the forms to certain individuals; requiring a certain power of attorney form to contain certain information; requiring the Secretary of Health and Mental Hygiene to keep a certain registry; providing that a certain power of attorney form is no longer valid when a certain notice of termination is accepted by the Secretary of Health and Mental Hygiene; requiring certain individuals and entities to comply with a certain power of attorney form; providing that this Act does not prohibit a health care facility from establishing reasonable restrictions on visitation; requiring the Office of the Attorney General, in collaboration with the Department of Health and Mental Hygiene, to adopt certain

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regulations; and generally relating to a public power of attorney and health care decisions.”.

On pages 1 through 3, strike in their entirety the lines beginning with line 3 on page 1 through line 13 on page 3, inclusive.

On page 3, after line 13, insert:

“BY adding to

Article - Health - General

Section 20-1101 through 20-1109, inclusive, to be under the new subtitle “Subtitle 11.

Public Power of Attorney for Health Care Decisions”

Annotated Code of Maryland

(2000 Replacement Volume and 2004 Supplement)”.

AMENDMENT NO. 3

On page 3, after line 16, insert:

“SUBTITLE 11. PUBLIC POWER OF ATTORNEY FOR HEALTH CARE DECISIONS.

20-1101.

(A) THE OFFICE OF THE ATTORNEY GENERAL, IN CONSULTATION WITH THE DEPARTMENT, SHALL DEVELOP THE FOLLOWING FORMS:

(1) A CONTINUOUS AND DURABLE “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM; AND

(2) A “NOTICE OF TERMINATION OF POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM.

(B) (1) THE OFFICE OF THE ATTORNEY GENERAL SHALL MAKE THE FORMS AVAILABLE ON THE OFFICE’S WEBSITE.

(2) THE SECRETARY SHALL MAKE THE FORMS AVAILABLE ON THE DEPARTMENT’S WEBSITE.

(C) THE FORMS SHALL BE MAILED TO THE SECRETARY BY CERTIFIED MAIL ACCORDING TO INSTRUCTIONS PROVIDED ON THE FORMS.

20-1102.

THE “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM SHALL AUTHORIZE AN INDIVIDUAL TO DESIGNATE ANOTHER INDIVIDUAL TO:

(1) MAKE MEDICAL DECISIONS ON BEHALF OF THE DESIGNATING INDIVIDUAL;

(2) VISIT THE DESIGNATING INDIVIDUAL IN A HEALTH CARE FACILITY IF THE DESIGNATING INDIVIDUAL IS RECEIVING HEALTH CARE SERVICES FROM THE HEALTH CARE FACILITY; AND

(3) MAKE DECISIONS REGARDING THE DEATH OF THE DESIGNATING INDIVIDUAL, INCLUDING DECISIONS REGARDING DISPOSITION OF THE BODY AND FUNERAL ARRANGEMENTS.

20-1103.

(A) THE “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM SHALL REQUIRE THE DESIGNATING INDIVIDUAL AND THE DESIGNEE TO:

(1) VERIFY THAT EACH INDIVIDUAL IS AT LEAST 18 YEARS OLD;

(2) SIGN THE FORM; AND

(3) PROVIDE A MAILING ADDRESS.

(B) THE “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM SHALL REQUIRE THE SIGNATURE AND SEAL OF ACKNOWLEDGMENT OF A NOTARY PUBLIC TO BE VALID.

(C) THE SECRETARY SHALL REGISTER THE “POWER OF ATTORNEY FOR

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HEALTH CARE DECISIONS” FORM AS PROVIDED IN § 20-1105 OF THIS SUBTITLE AND SHALL RETURN A COPY OF THE REGISTERED FORM TO THE DESIGNATING INDIVIDUAL AND DESIGNEE.

20-1104.

(A) THE “NOTICE OF TERMINATION OF POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM SHALL REQUIRE THE DESIGNATING INDIVIDUAL TO SIGN THE FORM.

(B) THE SECRETARY SHALL REGISTER THE “NOTICE OF TERMINATION OF POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM AS PROVIDED IN § 20-1105 OF THIS SUBTITLE AND SHALL RETURN A COPY OF THE FORM TO THE FORMER DESIGNATING INDIVIDUAL AND DESIGNEE.

20-1105.

THE SECRETARY SHALL KEEP A POWER OF ATTORNEY FOR HEALTH CARE DECISIONS REGISTRY, WHICH SHALL CONTAIN:

(1) A COMPLETE RECORD OF EACH “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM AND “NOTICE OF TERMINATION OF POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM RECEIVED;

(2) PROPERLY INDEXED, THE NAME OF EACH DESIGNATING INDIVIDUAL WHO HAS A “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM ON FILE; AND

(3) THE DATE EACH FORM WAS RECORDED AND THE NAME OF THE NOTARY PUBLIC WHO WITNESSED THE SIGNATURES.

20-1106.

AN INDIVIDUAL’S “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS”

FORM IS NO LONGER VALID WHEN A “NOTICE OF TERMINATION OF POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM HAS BEEN RECEIVED FROM THE INDIVIDUAL AND REGISTERED BY THE SECRETARY.

20-1107.

A HEALTH CARE FACILITY, CEMETERY, FUNERAL DIRECTOR, OR OTHER PERSON SUBJECT TO THE “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM:

(1) SHALL COMPLY WITH THE “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM; AND

(2) IS NOT LIABLE FOR VIOLATING THIS SUBTITLE FOR GOOD FAITH COMPLIANCE WITH THE “POWER OF ATTORNEY FOR HEALTH CARE DECISIONS” FORM.

20-1108.

THIS SUBTITLE DOES NOT PROHIBIT A HEALTH CARE FACILITY FROM ESTABLISHING REASONABLE RESTRICTIONS ON VISITATION, INCLUDING RESTRICTIONS ON THE HOURS OF VISITATION AND NUMBER OF VISITORS.

20-1109.

THE OFFICE OF THE ATTORNEY GENERAL, IN COLLABORATION WITH THE DEPARTMENT, SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.”.

AMENDMENT NO. 4

On pages 3 through 18, strike in their entirety the lines beginning with line 17 on page 3 through line 19 on page 18, inclusive.

(Over)

On page 18, in line 20, strike “3.” and substitute “2.”; and in line 21, strike “July” and substitute “October”.