

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

House Bill 1004 (Delegate Smigiel, *et al.*)
 Health and Government Operations

Public Power of Attorney - Health Care Decisions

This bill requires the Department of Health and Mental Hygiene (DHMH) to establish and maintain a “power of attorney for health care decisions” registry.

Fiscal Summary

State Effect: DHMH general fund expenditures could increase by \$92,300 in FY 2006. Future year expenditures reflect annualization and inflation. No effect on revenues.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	92,300	80,800	85,900	91,400	97,400
Net Effect	(\$92,300)	(\$80,800)	(\$85,900)	(\$91,400)	(\$97,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires the Office of the Attorney General (OAG), in consultation with DHMH, to 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.

The power of attorney form authorizes an individual to designate another individual to: (1) make medical decisions on behalf of the designating individual; (2) visit the

individual in a health care facility; and (3) make decisions regarding the individual's death, including disposition of the body and funeral arrangements. The registry must have a complete record of each power of attorney and notice of termination form, properly indexed, with the date each form was recorded. An individual's power of attorney form is no longer valid when a notice of termination of power of attorney form has been received and registered by DHMH.

A health care facility, cemetery, funeral director, or other person subject to the power of attorney form must comply with the form and is not liable for violating the bill's requirements for good faith compliance with the form. The bill does not prohibit a health care facility from establishing reasonable restrictions on visitation, including restrictions on the hours of visitation and number of visitors.

OAG, in collaboration with DHMH, must adopt regulations implementing the bill.

Current Law: Maryland's Health Care Decision Act provides that any competent individual may make a written advance directive regarding the provision of health care or the withholding or withdrawal of health care. The individual may appoint an agent to make health care decisions under circumstances specified in the advance directive. An advance directive must be signed in front of two witnesses. A health care agent may not serve as a witness and at least one of the witnesses must be an individual who is not knowingly entitled to any portion of the estate.

State Fiscal Effect: DHMH general fund expenditures could increase by an estimated \$92,296 in fiscal 2006, which accounts for the bill's October 1, 2005 effective date. This estimate reflects the cost of hiring two office clerks to register forms, and return copies of forms to designating individuals and designees. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$53,898
Computer Programming for Registry	25,000
Other Operating Expenses	<u>13,398</u>
Total FY 2006 State Expenditures	\$92,296

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The development of the power of attorney for health care decisions and termination forms could be handled with existing OAG budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Office of the Attorney General, Department of Legislative Services

Fiscal Note History: First Reader - March 8, 2005
mp/jr

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