

# HOUSE BILL 251

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By: **Delegates Morhaim, Cardin, and Stein**  
Introduced and read first time: January 23, 2008  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Decisions Act – Disclosure by Health Care Facilities – Practices**  
3 **Related to Use of Life–Sustaining Procedures**

4 FOR the purpose of requiring health care facilities to make a certain disclosure  
5 concerning facility practices with respect to certain patient preferences, certain  
6 medical orders, and certain outcome assessments; specifying the manner of  
7 certain disclosures; providing that certain provisions of this Act may not be  
8 deemed to impair certain authority of health care facilities or require health  
9 care facilities to adopt certain policies or procedures; requiring the State  
10 Advisory Council on Quality Care at the End of Life, after consultation with  
11 certain groups, to develop and make certain resources available to the public;  
12 providing for a delayed effective date for certain provisions of this Act; and  
13 generally relating to disclosure by health care facilities of practices relating to  
14 the use of life–sustaining procedures.

15 BY repealing and reenacting, with amendments,  
16 Article – Health – General  
17 Section 5–615  
18 Annotated Code of Maryland  
19 (2005 Replacement Volume and 2007 Supplement)

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

22 **Article – Health – General**

23 5–615.

24 (a) In this section, “health care facility” has the meaning stated in § 19–114  
25 of this article.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) Each health care facility shall:

2 (I) [provide] **PROVIDE** each individual on admittance to the  
3 facility information concerning the rights of the individual to make decisions  
4 concerning health care, including the right to accept or refuse treatment, and the right  
5 to make an advance directive, including a living will; **AND**

6 (II) **DISCLOSE TO THE PUBLIC THE PRACTICES**  
7 **ESTABLISHED IN THE FACILITY TO:**

8 1. **ELICIT AND DOCUMENT THE VALUES, GOALS, AND**  
9 **PREFERENCES OF A PATIENT THAT MAY AFFECT THE PROVISION,**  
10 **WITHHOLDING, OR WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES DURING**  
11 **THE PATIENT'S CURRENT ADMISSION;**

12 2. **EXCEPT AS PROVIDED IN § 5-611(B) OF THIS**  
13 **SUBTITLE, CAUSE MEDICAL ORDERS CONCERNING THE PROVISION,**  
14 **WITHHOLDING, OR WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES,**  
15 **INCLUDING DISCHARGE AND TRANSFER ORDERS, TO BE CONSISTENT WITH THE**  
16 **KNOWN VALUES, GOALS, AND PREFERENCES OF THE PATIENT; AND**

17 3. **ASSESS PERIODICALLY OUTCOMES TO EVALUATE**  
18 **WHETHER THE PROVISION, WITHHOLDING, OR WITHDRAWAL OF**  
19 **LIFE-SUSTAINING PROCEDURES WAS CONSISTENT WITH THE KNOWN VALUES,**  
20 **GOALS, AND PREFERENCES OF THE PATIENT.**

21 (2) **THE DISCLOSURES REQUIRED UNDER PARAGRAPH (1)(II) OF**  
22 **THIS SUBSECTION SHALL BE MADE:**

23 (I) **ON REQUEST BY ANY INDIVIDUAL; AND**

24 (II) **IF A HEALTH CARE FACILITY ROUTINELY MAINTAINS AN**  
25 **INTERNET WEBSITE, ON THE FACILITY'S WEBSITE.**

26 (3) **PARAGRAPH (1)(II) OF THIS SUBSECTION MAY NOT BE**  
27 **DEEMED TO:**

28 (I) **IMPAIR OR OTHERWISE AFFECT THE AUTHORITY OF A**  
29 **HEALTH CARE FACILITY TO DETERMINE PRACTICES WITHIN THE FACILITY; OR**

30 (II) **REQUIRE ADOPTION BY A HEALTH CARE FACILITY OF**  
31 **ANY PARTICULAR POLICY OR PROCEDURE.**

1 (c) (1) The Department, in consultation with the Office of the Attorney  
2 General, shall develop an information sheet that provides information relating to  
3 advance directives, which shall include:

4 (i) Written statements informing an individual that an advance  
5 directive:

6 1. Is a useful, legal, and well established way for an  
7 individual to direct medical care;

8 2. Allows an individual to specify the medical care that  
9 the individual will receive and can alleviate conflict among family members and  
10 health care providers;

11 3. Can ensure that an individual's religious beliefs are  
12 considered when directing medical care;

13 4. Is most effective if completed in consultation with  
14 family members, or legal and religious advisors, if an individual desires;

15 5. Can be revoked or changed at any time;

16 6. Is available in many forms, including model forms  
17 developed by religious organizations, estate planners, and lawyers;

18 7. Does not have to be on any specific form and can be  
19 personalized; and

20 8. If completed, should be copied for an individual's  
21 family members, physicians, and legal advisors; and

22 (ii) The following written statements:

23 1. That an individual should discuss the appointment of  
24 a health care agent with the potential appointee;

25 2. That advance directives are for individuals of all ages;

26 3. That in the absence of an appointed health care agent,  
27 the next of kin make an individual's health care decisions when the individual is  
28 incapable of making those decisions; and

29 4. That an individual is not required to complete an  
30 advance directive.

31 (2) The information sheet developed by the Department under this  
32 subsection shall be provided by:

1 (i) The Department, in accordance with § 15–109.1 of this  
2 article;

3 (ii) The Motor Vehicle Administration, in accordance with §  
4 12–303.1 of the Transportation Article; and

5 (iii) A carrier, in accordance with § 15–122.1 of the Insurance  
6 Article.

7 (3) The information sheet developed by the Department under this  
8 subsection may not contain or promote a specific advance directive form.

9 SECTION 2. AND BE IT FURTHER ENACTED, That the State Advisory  
10 Council on Quality Care at the End of Life, after consultation with the Health  
11 Facilities Association of Maryland, the Hospice and Palliative Care Network of  
12 Maryland, the Maryland Hospital Association, Mid–Atlantic LifeSpan, and other  
13 appropriate groups, shall develop and make resources available to the public related to  
14 the practices to be disclosed by health care facilities under  
15 § 5–615(b)(1)(ii) of the Health – General Article, as enacted by Section 1 of this Act.  
16 These resources may include model language, points to consider, references to  
17 published materials, or other information that the State Advisory Council deems  
18 helpful to facilitate patient–centered decision making about life–sustaining  
19 procedures. To the extent feasible, the State Advisory Council shall develop and make  
20 resources available to the public that take account of relevant differences among types  
21 of health care facilities or time constraints on decision making.

22 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall  
23 take effect January 1, 2009.

24 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
25 Section 3 of this Act, this Act shall take effect June 1, 2008.