

SENATE BILL 355

J1, J3

8lr1839

By: **Senator Lenett**

Introduced and read first time: January 29, 2008

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Facilities – Disclosures – Use of Life–Sustaining Procedures**

3 FOR the purpose of requiring certain health care facilities to disclose certain practices
4 that elicit and document certain values, goals, and preferences that may affect
5 the provision, withholding, or withdrawal of certain life–sustaining procedures
6 under certain circumstances; requiring certain health care facilities to cause
7 certain medical orders to be consistent with certain values, goals, and
8 preferences subject to certain exceptions; requiring certain health care facilities
9 to periodically assess certain outcomes in order to evaluate certain practices;
10 requiring certain disclosures to be made on certain requests and on certain
11 websites; prohibiting a certain construction of certain disclosures; requiring the
12 State Advisory Council on Quality Care at the End of Life to consult with
13 certain groups before developing and making publicly available certain
14 resources; providing for a delayed effective date for certain provisions of this
15 Act; and generally relating to disclosure by health care facilities of their use of
16 life–sustaining procedures.

17 BY repealing and reenacting, without amendments,
18 Article – Health – General
19 Section 5–611(b) and 5–613(a)(3)
20 Annotated Code of Maryland
21 (2005 Replacement Volume and 2007 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Health – General
24 Section 5–615(b)
25 Annotated Code of Maryland
26 (2005 Replacement Volume and 2007 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Health – General**

2 5–611.

3 (b) (1) Except as provided in § 5–613(a)(3) of this subtitle, nothing in this
4 subtitle may be construed to require a physician to prescribe or render medically
5 ineffective treatment.

6 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
7 patient’s attending physician may withhold or withdraw as medically ineffective a
8 treatment that under generally accepted medical practices is life–sustaining in nature
9 only if the patient’s attending physician and a second physician certify in writing that
10 the treatment is medically ineffective and the attending physician informs the patient
11 or the patient’s agent or surrogate of the physician’s decision.

12 (ii) If the patient is being treated in the emergency department
13 of a hospital and only one physician is available, the certification of a second physician
14 is not required.

15 5–613.

16 (a) A health care provider that intends not to comply with an instruction of a
17 health care agent or a surrogate shall:

18 (3) Pending the transfer, comply with an instruction of a competent
19 individual, or of a health care agent or surrogate for an individual who is incapable of
20 making an informed decision, if a failure to comply with the instruction would likely
21 result in the death of the individual.

22 5–615.

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

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

28 (II) **DISCLOSE THE PRACTICES ESTABLISHED IN THE**
29 **HEALTH CARE FACILITY THAT:**

30 **1. ELICIT AND DOCUMENT THE VALUES, GOALS, AND**
31 **PREFERENCES OF A PATIENT THAT MAY AFFECT THE PROVISION,**
32 **WITHHOLDING, OR WITHDRAWAL OF LIFE–SUSTAINING PROCEDURES DURING**
33 **THE PATIENT’S ADMISSION;**

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

6 **3. PERIODICALLY ASSESS OUTCOMES TO EVALUATE**
7 **WHETHER THE PROVISION, WITHHOLDING, OR WITHDRAWAL OF**
8 **LIFE-SUSTAINING PROCEDURES WAS CONSISTENT WITH THE KNOWN VALUES,**
9 **GOALS, AND PREFERENCES OF PATIENTS.**

10 **(2) THE DISCLOSURE REQUIRED UNDER PARAGRAPH (1)(II) OF**
11 **THIS SUBSECTION SHALL BE MADE:**

12 **(I) ON REQUEST OF AN INDIVIDUAL; AND**

13 **(II) IF A HEALTH CARE FACILITY ROUTINELY MAINTAINS AN**
14 **INTERNET WEBSITE, ON THAT WEBSITE.**

15 **(3) PARAGRAPH (1)(II) OF THIS SUBSECTION MAY NOT BE**
16 **CONSTRUED TO:**

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

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That the State Advisory
23 Council on Quality Care at the End of Life, after consultation with the Health
24 Facilities Association of Maryland, the Hospice and Palliative Care Network of
25 Maryland, the Maryland Hospital Association, Mid-Atlantic LifeSpan, and other
26 appropriate groups, shall develop and make publicly available resources related to the
27 practices to be disclosed by health care facilities under § 5-615(b)(1)(ii) of the Health –
28 General Article of the Annotated Code of Maryland. These resources may include
29 model language, checklists, points to consider, references to published materials, or
30 other information that the State Advisory Council considers helpful to facilitate
31 patient-centered decision making about life-sustaining procedures. To the extent
32 feasible, these resources shall take account of relevant differences among types of
33 health care facilities or time constraints on decision making.

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

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