

SENATE BILL 546

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9lr0681

By: **Senators Forehand, King, and Madaleno**

Introduced and read first time: February 5, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health – End-of-Life Care Options – Counseling**

3 FOR the purpose of requiring certain health care providers to provide certain
4 information and counseling about end-of-life care options to certain patients
5 with an end-of-life condition and proxy decision makers under certain
6 circumstances; requiring certain end-of-life care counseling to include certain
7 information; authorizing end-of-life care counseling to occur over a certain
8 period of time; authorizing certain referrals for end-of-life care counseling
9 under certain circumstances; requiring certain health care providers to make a
10 certain referral and provide a patient or proxy decision maker with certain
11 information under certain circumstances; requiring end-of-life care counseling
12 to be consistent with the Health Care Decisions Act; prohibiting end-of-life care
13 counseling from encouraging or condoning certain actions; defining certain
14 terms; and generally relating to providing end-of-life care counseling to
15 patients and proxy decision makers when an end-of-life condition has been
16 diagnosed.

17 BY adding to

18 Article – Health – General

19 Section 5–901 through 5–904 to be under the new subtitle “Subtitle 9.
20 End-of-Life Care Counseling”

21 Annotated Code of Maryland

22 (2005 Replacement Volume and 2008 Supplement)

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

25 **Article – Health – General**

26 **SUBTITLE 9. END-OF-LIFE CARE COUNSELING.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **5-901.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) “DISEASE-TARGETED TREATMENT” MEANS TREATMENT DIRECTED
5 AT THE UNDERLYING DISEASE OR CONDITION THAT IS INTENDED TO ALTER THE
6 PROGRESSION OF THE DISEASE OR CONDITION, REGARDLESS OF WHETHER A
7 CURE IS POSSIBLE.

8 (C) “END-OF-LIFE CONDITION” MEANS:

9 (1) AN END-STAGE CONDITION AS DEFINED IN § 5-601(J) OF THIS
10 TITLE;

11 (2) A PERSISTENT VEGETATIVE STATE AS DEFINED IN § 5-601(Q)
12 OF THIS TITLE; OR

13 (3) A TERMINAL CONDITION.

14 (D) “HEALTH CARE PROVIDER” MEANS:

15 (1) A LICENSED PHYSICIAN;

16 (2) A CERTIFIED NURSE PRACTITIONER; OR

17 (3) A CERTIFIED PHYSICIAN ASSISTANT.

18 (E) “HOSPICE PROVIDER” MEANS A LICENSED GENERAL HOSPICE CARE
19 PROGRAM UNDER § 19-901 OF THIS ARTICLE.

20 (F) “LIFE-SUSTAINING PROCEDURE” HAS THE MEANING STATED IN §
21 5-601(N) OF THIS TITLE.

22 (G) “PALLIATIVE CARE” MEANS MEDICAL TREATMENT,
23 INTERDISCIPLINARY CARE, OR CONSULTATION PROVIDED TO A PATIENT OR TO
24 A RELATIVE OR FRIEND OF THE PATIENT THAT IS INTENDED TO PREVENT OR
25 ALLEVIATE SUFFERING AND ENHANCE THE PATIENT’S QUALITY OF LIFE.

26 (H) “PROXY” MEANS AN INDIVIDUAL AUTHORIZED TO MAKE HEALTH
27 CARE DECISIONS FOR A PATIENT.

1 **(I) “TERMINAL CONDITION” MEANS AN INCURABLE CONDITION THAT**
2 **TO A REASONABLE DEGREE OF MEDICAL CERTAINTY MAKES DEATH IMMINENT**
3 **AND MOST LIKELY TO OCCUR WITHIN 6 MONTHS.**

4 **5-902.**

5 **(A) WHEN A PATIENT IS DIAGNOSED WITH AN END-OF-LIFE CONDITION,**
6 **THE PHYSICIAN OR SURGEON MAKING THE DIAGNOSIS SHALL INFORM THE**
7 **PATIENT OR PROXY THAT THE PATIENT MAY RECEIVE COUNSELING REGARDING**
8 **END-OF-LIFE CARE OPTIONS THAT ARE AVAILABLE UNDER THE LAW.**

9 **(B) IF A PATIENT OR PROXY DECIDES TO RECEIVE END-OF-LIFE CARE**
10 **COUNSELING, THE HEALTH CARE PROVIDER SHALL:**

11 **(1) PROVIDE THE COUNSELING; OR**

12 **(2) REFER THE PATIENT OR PROXY TO RECEIVE COUNSELING**
13 **FROM A HOSPICE PROVIDER OR HEALTH CARE PROVIDER.**

14 **(C) IF A PATIENT OR PROXY DECIDES TO RECEIVE END-OF-LIFE CARE**
15 **COUNSELING, THE COUNSELING SHALL INCLUDE THE FOLLOWING**
16 **COMPREHENSIVE INFORMATION:**

17 **(1) OPTIONS REGARDING HOSPICE CARE AT HOME OR IN A**
18 **HEALTH CARE SETTING; AND**

19 **(2) THE RIGHT OF THE PATIENT OR PROXY TO, CONSISTENT WITH**
20 **THE HEALTH CARE DECISIONS ACT:**

21 **(I) REFUSE OR WITHDRAW FROM ANY LIFE-SUSTAINING**
22 **PROCEDURE;**

23 **(II) CONTINUE TO PURSUE DISEASE-TARGETED**
24 **TREATMENT WITH OR WITHOUT CONCURRENT PALLIATIVE CARE;**

25 **(III) RECEIVE COMPREHENSIVE PAIN AND SYMPTOM**
26 **MANAGEMENT AT THE END OF LIFE, INCLUDING ADEQUATE PAIN MEDICATION,**
27 **PALLIATIVE CHEMOTHERAPY, AND OTHER CLINICAL TREATMENTS USEFUL**
28 **WHEN A PATIENT HAS AN END-OF-LIFE CONDITION;**

29 **(IV) MAKE AN ADVANCE DIRECTIVE UNDER SUBTITLE 6 OF**
30 **THIS TITLE; AND**

(V) REQUEST THAT AN EMERGENCY MEDICAL SERVICES
“DO NOT RESUSCITATE ORDER” BE ENTERED.

(D) END-OF-LIFE CONDITION CARE COUNSELING MAY INCLUDE:

(1) DISCUSSIONS ABOUT THE DESIRED TREATMENT OUTCOMES
FOR THE PATIENT, THE PROXY, AND THE PATIENT’S RELATIVES AND FRIENDS,
BASED ON THE PATIENT’S WISHES REGARDING THE USE OF TREATMENTS, AND
IF THE PATIENT’S WISHES ARE UNKNOWN OR UNCLEAR, BASED ON THE BEST
INTERESTS OF THE PATIENT; AND

(2) A DISCUSSION OF BENEFITS AND BURDENS OF TREATMENT
OPTIONS IN A MANNER THAT THE PATIENT, THE PROXY, AND THE PATIENT’S
RELATIVES AND FRIENDS CAN EASILY UNDERSTAND.

(F) (1) END-OF-LIFE CARE COUNSELING MAY OCCUR OVER A SERIES
OF MEETINGS WITH THE HEALTH CARE PROVIDER OR OTHER COUNSELING
PROVIDERS BASED ON THE PATIENT’S NEEDS.

(2) THE HEALTH CARE PROVIDER OR OTHER COUNSELING
PROVIDER MAY ENCOURAGE THE PATIENT OR PROXY TO INCLUDE THE
PATIENT’S RELATIVES AND FRIENDS IN END-OF-LIFE CARE COUNSELING.

5-903.

IF A HEALTH CARE PROVIDER DOES NOT WISH TO COMPLY WITH §
5-902(B) OF THIS SUBTITLE, THE HEALTH CARE PROVIDER SHALL:

(1) INFORM THE PATIENT OR PROXY THAT THE HEALTH CARE
PROVIDER DOES NOT WISH TO COMPLY;

(2) REFER OR TRANSFER THE PATIENT TO ANOTHER HEALTH
CARE PROVIDER; AND

(3) PROVIDE THE PATIENT OR PROXY WITH INFORMATION ON
PROCEDURES TO TRANSFER TO ANOTHER HEALTH CARE PROVIDER.

5-904.

THE END-OF-LIFE CARE COUNSELING PROVIDED IN ACCORDANCE WITH
THIS SUBTITLE SHALL BE CONSISTENT WITH THE HEALTH CARE DECISIONS
ACT AND MAY NOT ENCOURAGE OR CONDONE:

1 (1) **MERCY KILLING, EUTHANASIA, OR ANY AFFIRMATIVE OR**
2 **DELIBERATE ACT OR OMISSION TO END LIFE OTHER THAN TO PERMIT THE**
3 **NATURAL PROCESS OF DYING; OR**

4 (2) **THE WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES BASED**
5 **IN WHOLE OR IN PART, ON EITHER A PATIENT'S PREEXISTING, LONG-TERM**
6 **MENTAL OR PHYSICAL DISABILITY, OR A PATIENT'S ECONOMIC DISADVANTAGE.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2009.