

SENATE BILL 759

J2, N2

9lr3030
CF HB 250

By: **Senator Dyson**

Introduced and read first time: February 6, 2009

Assigned to: Finance and Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 28, 2009

CHAPTER _____

1 AN ACT concerning

2 **Public Health - ~~Authority to Certify Incapacity or~~ Certificates of Death -**
3 **Nurse Practitioners**

4 FOR the purpose of authorizing certain nurse practitioners to ~~make a certain~~
5 ~~determination of incapacity or debilitation under certain circumstances;~~
6 ~~authorizing certain nurse practitioners to fill out and sign a certain certificate of~~
7 ~~death under certain circumstances; authorizing certain nurse practitioners to~~
8 ~~certify that certain patients are incapable of making a certain decision under~~
9 ~~certain circumstances; authorizing certain nurse practitioners to certify that~~
10 ~~certain patients are in a certain health condition;~~ and generally relating to
11 nurse practitioners and ~~authority to certify incapacity or death~~ death
12 certificates.

13 ~~BY repealing and reenacting, with amendments,~~
14 ~~Article - Estates and Trusts~~
15 ~~Section 13-906~~
16 ~~Annotated Code of Maryland~~
17 ~~(2001 Replacement Volume and 2008 Supplement)~~

18 BY repealing and reenacting, with amendments,
19 Article - Health - General
20 Section ~~4-212, 5-602(e), 5-606, and 5-608(a)~~ 4-212
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 ~~Article - Estates and Trusts~~

4 ~~13-906.~~

5 (a) (1) ~~A determination of incapacity or debilitation under this subtitle~~
6 ~~shall:~~

7 (i) ~~Be made by the attending physician OR NURSE~~
8 ~~PRACTITIONER to a reasonable degree of medical certainty;~~

9 (ii) ~~Be in writing; and~~

10 (iii) ~~Contain the attending physician's OR NURSE~~
11 ~~PRACTITIONER'S opinion regarding the cause and nature of the parent's incapacity or~~
12 ~~debilitation, and the extent and probable duration of the incapacity or debilitation.~~

13 (2) ~~If a standby guardian's identity is known to an attending physician~~
14 ~~OR NURSE PRACTITIONER, the attending physician OR NURSE PRACTITIONER~~
15 ~~shall provide a copy of a determination of incapacity or debilitation to the standby~~
16 ~~guardian.~~

17 (b) ~~If requested by a standby guardian, an attending physician OR NURSE~~
18 ~~PRACTITIONER shall make a determination regarding the parent's incapacity or~~
19 ~~debilitation for purposes of this subtitle.~~

20 (c) ~~If the parent is able to comprehend the information, a standby guardian~~
21 ~~shall inform the parent of:~~

22 (1) ~~The beginning of the standby guardian's authority as a result of a~~
23 ~~determination of incapacity; and~~

24 (2) ~~The parent's right to revoke the authority promptly after receipt of~~
25 ~~the determination of incapacity.~~

26 **Article - Health - General**

27 4-212.

28 (a) This section does not apply to a fetal death.

29 (b) (1) A certificate of death regardless of age of decedent shall be filled
30 out and signed by:

1 (i) The medical examiner, if the medical examiner takes charge
2 of the body; or

3 (ii) If the medical examiner does not take charge of the body, the
4 physician or [physician's collaborating] nurse practitioner who last attended the
5 deceased.

6 (2) The medical examiner, physician, or [physician's collaborating]
7 nurse practitioner shall fill in only the following information on the certificate of
8 death:

9 (i) The name of the deceased.

10 (ii) The cause of death and medical certification.

11 (iii) The date and hour of death.

12 (iv) The place where death occurred.

13 (3) Any other information that is required on the certificate of death
14 regardless of age of decedent shall be filled in:

15 (i) By the person who has charge of the body; or

16 (ii) If the State Anatomy Board has charge of the body, by the
17 person who last had charge of the body before it was sent to the State Anatomy Board.

18 (4) The medical certification shall be completed within 24 hours after
19 receipt of the death certificate by the physician or [physician's collaborating] nurse
20 practitioner in charge of the patient's care for the illness or condition which resulted in
21 death, except when inquiry is required by the medical examiner.

22 (5) In the absence or inability of the attending physician or
23 [physician's collaborating] nurse practitioner or with the attending physician's or
24 [physician's collaborating] nurse practitioner's approval, the certificate may be
25 completed by:

26 (i) The attending physician's associate;

27 (ii) The chief medical officer or designee of the institution in
28 which death occurred; or

29 (iii) The physician who performed an autopsy upon the decedent,
30 provided the individual has access to the medical history of the case and death is due
31 to natural causes.

1 (6) The person completing the cause of death and medical certification
2 shall attest to the accuracy by signature or by an approved electronic process.

3 (7) The funeral director or person acting as the funeral director shall
4 in all cases obtain the medical certification from the person responsible for its
5 completion or obtain assurance that the medical certification has been provided to the
6 Secretary by an approved electronic process.

7 (c) Each individual concerned with carrying out this subtitle promptly shall
8 notify the medical examiner if:

9 (1) The deceased was not under treatment by a physician **OR NURSE**
10 **PRACTITIONER** during the terminal illness;

11 (2) The cause of death is unknown; or

12 (3) The individual considers any of the following conditions to be the
13 cause of death or to have contributed to the death:

14 (i) An accident, including a fall with a fracture or other injury.

15 (ii) Homicide.

16 (iii) Suicide.

17 (iv) Other external manner of death.

18 (v) Alcoholism.

19 (vi) Criminal or suspected criminal abortion.

20 (d) (1) If, within 24 hours after taking charge of a body, the medical
21 examiner has not determined the cause of death, the medical examiner shall enter
22 “investigation pending” in the cause of death section of the death certificate.

23 (2) As soon as the medical examiner determines the cause of death,
24 the medical examiner shall send to the Secretary a report of the cause of death, for
25 entry on the certificate.

26 (e) (1) A physician or [physician’s collaborating] nurse practitioner who
27 fills out a certificate of death shall give it or transmit it by approved electronic media,
28 including facsimile, to the mortician within 24 hours after the death occurred.

29 (2) A medical examiner who fills out a certificate of death shall give it
30 or transmit it by approved electronic media, including facsimile, to the mortician
31 within 24 hours after the medical examiner took charge of the body.

1 (f) (1) If a death occurs on a common carrier in the United States and the
2 body is removed from the carrier in this State, the death shall be registered in this
3 State, and the place where it is first removed shall be considered the place of death.
4 When a death occurs on a common carrier while in international waters or air space or
5 in a foreign country or its air space and the body is first removed from the carrier in
6 this State, the death shall be registered in this State, but the certificate shall show the
7 actual place of death insofar as can be determined.

8 (2) The individual in charge or the owner of the common carrier or a
9 designee shall file a certificate of death within 24 hours after the body is removed from
10 the carrier.

11 (3) If the death occurred under any of the conditions or circumstances
12 set forth in subsection (c) of this section, the medical examiner shall be notified.

13 (g) A mortician who obtains a certificate of death under this section shall file
14 the certificate within 72 hours after the death.

15 (h) (1) Except as authorized under this subtitle, an individual who has a
16 duty to fill out and sign a certificate of death may not execute more than one
17 certificate for a death.

18 (2) The attending physician, the [physician's collaborating] nurse
19 practitioner, or a medical examiner who takes charge of a body may file a replacement
20 death certificate if a correction that the physician, the [physician's collaborating]
21 nurse practitioner, or medical examiner authorizes cannot be entered legibly on the
22 original certificate.

23 ~~5-602.~~

24 ~~(e) (1) Unless otherwise provided in the document, an advance directive~~
25 ~~shall become effective when the declarant's attending physician and a second~~
26 ~~physician OR A NURSE PRACTITIONER certify in writing that the patient is incapable~~
27 ~~of making an informed decision.~~

28 ~~(2) If a patient is unconscious, or unable to communicate by any~~
29 ~~means, the certification of a second physician OR A NURSE PRACTITIONER is not~~
30 ~~required under paragraph (1) of this subsection.~~

31 ~~5-606.~~

32 ~~(a) (1) Prior to providing, withholding, or withdrawing treatment for~~
33 ~~which authorization has been obtained or will be sought under this subtitle, the~~
34 ~~attending physician and a second physician OR A NURSE PRACTITIONER, one of~~
35 ~~whom shall have examined the patient within 2 hours before making the certification,~~
36 ~~shall certify in writing that the patient is incapable of making an informed decision~~

1 ~~regarding the treatment. The certification shall be based on a personal examination of~~
2 ~~the patient.~~

3 ~~(2) If a patient is unconscious, or unable to communicate by any~~
4 ~~means, the certification of a second physician OR NURSE PRACTITIONER is not~~
5 ~~required under paragraph (1) of this subsection.~~

6 ~~(3) When authorization is sought for treatment of a mental illness, the~~
7 ~~second physician OR NURSE PRACTITIONER may not be otherwise currently involved~~
8 ~~in the treatment of the person assessed.~~

9 ~~(4) The cost of an assessment to certify incapacity under this~~
10 ~~subsection shall be considered for all purposes a cost of the patient's treatment.~~

11 ~~(b) A health care provider may not withhold or withdraw life sustaining~~
12 ~~procedures on the basis of an advance directive where no agent has been appointed or~~
13 ~~on the basis of the authorization of a surrogate, unless:~~

14 ~~(1) The patient's attending physician and a second physician OR A~~
15 ~~NURSE PRACTITIONER have certified that the patient is in a terminal condition or~~
16 ~~has an end-stage condition; or~~

17 ~~(2) Two physicians, one of whom is a neurologist, neurosurgeon, or~~
18 ~~other physician who has special expertise in the evaluation of cognitive functioning,~~
19 ~~certify that the patient is in a persistent vegetative state.~~

20 ~~5-608.~~

21 ~~(a) (1) Certified or licensed emergency medical services personnel shall be~~
22 ~~directed by protocol to follow emergency medical services "do not resuscitate orders"~~
23 ~~pertaining to adult patients in the outpatient setting in accordance with protocols~~
24 ~~established by the Maryland Institute for Emergency Medical Services Systems in~~
25 ~~conjunction with the State Board of Physicians.~~

26 ~~(2) Emergency medical services "do not resuscitate orders" may not~~
27 ~~authorize the withholding of medical interventions, or therapies deemed necessary to~~
28 ~~provide comfort care or to alleviate pain.~~

29 ~~(3) A health care provider, other than certified or licensed emergency~~
30 ~~medical services personnel, who sees, in a valid form, an emergency medical services~~
31 ~~"do not resuscitate order" described in paragraph (1) of this subsection that is not~~
32 ~~superseded by a subsequent physician's order OR NURSE PRACTITIONER'S ORDER:~~

33 ~~(i) May, before a patient's cardiac or respiratory arrest, provide,~~
34 ~~withhold, or withdraw treatment in accordance with the emergency medical services~~
35 ~~"do not resuscitate order"; and~~

1 (ii) ~~Shall, after a patient's cardiac or respiratory arrest,~~
2 ~~withhold or withdraw treatment in accordance with the emergency medical services~~
3 ~~"do not resuscitate order".~~

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.