

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 221

(Senator Lenett)

Finance

Health and Government Operations

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Health Care Facilities - Disclosures - Use of Life-Sustaining Procedures

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This bill requires each health care facility to disclose specified practices established for the facility regarding the implementation of advance directives and the use of cardiopulmonary resuscitation and “do not resuscitate” orders. In addition, facilities have to request a copy of any advance directive made by an individual. If an individual is not capable of making an informed decision, the facility has to inform the proxy decision maker of the right to make decisions concerning the individual’s health care, provide information on the local hospice program, and request a copy of the individual’s advance directive.

The bill takes effect June 1, 2009, but requirements for facility disclosure take effect January 1, 2010.

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Fiscal Summary

**State Effect:** The bill’s disclosure requirements have no impact on the Department of Health and Mental Hygiene. The bill’s uncodified requirement to develop resources can also be handled with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** A “proxy decision maker” is a health care agent or surrogate decision maker authorized to make health care decisions on behalf of an individual.

A health care facility must disclose its policy on honoring advance directive provisions on its web site and the Maryland Health Care Commission's web site. For a planned admission to a health care facility, before an individual is admitted, the admitting physician must inform the individual or the individual's proxy decision maker of its policy on honoring advance directive provisions.

Uncodified language in the bill requires the State Advisory Council on Quality Care at the End of Life, after consulting with appropriate stakeholders, to develop and make publicly available resources to facilitate patient-centered decision making about life sustaining procedures. To the extent feasible, the council has to develop resources that take account of relevant differences among types of health care facilities or time constraints on decision making. These provisions take effect June 1, 2009.

**Current Law:** Upon admission to a health care facility, a facility has to provide each individual with information concerning the rights of the individual to make decisions concerning health care, including the right to accept or refuse treatment, and the right to make an advance directive, including a living will.

**Background:** Chapter 265 of 2002 established the State Advisory Council on Quality Care at the End of Life. The council, staffed by the Office of the Attorney General, studies the impact of State statutes, regulations, and public policies on provision of care to the dying. The council also advises on matters related to the provision of care at the end of life. The council has published an "ethical framework" for facility policies.

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 355, was introduced during the 2008 session. SB 355 was heard by the Senate Finance Committee, but no further action was taken on the bill.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2009  
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