

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 82 (Delegates Morhaim and Kipke)
Health and Government Operations

Finance

**Health Care Decisions Act - "Medical Orders for Life-Sustaining Treatment"
Form**

This bill repeals provisions of law relating to the “Instructions on Current Life-Sustaining Treatment Options” form and requires the Department of Health and Mental Hygiene (DHMH), in conjunction with the Maryland Institute for Emergency Medical Services Systems (MIEMSS) and the State Board of Physicians, to develop and periodically revise a “Medical Orders for Life-Sustaining Treatment” form and instructions for its use.

Fiscal Summary

State Effect: The bill’s requirements can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: In developing a “Medical Orders for Life-Sustaining Treatment” form and instructions, DHMH must consult with the Office of the Attorney General, the State Board of Nursing, and the State Advisory Council on Quality Care at the End of Life. The form must be suitable for containing a physician’s or nurse practitioner’s written medical orders relating to a patient’s medical condition, including orders regarding the use of life-sustaining procedures. Health care facilities – which include assisted living programs, home health agencies, hospices, hospitals, kidney dialysis centers, and nursing homes – are required to accept and update or complete the form as specified by the bill; other health care providers are authorized, but not required, to accept and update or

complete the form. A nursing home or assisted living program must, by April 1, 2012, complete the form for each current patient who was admitted prior to the bill's October 1, 2011 effective date.

A "Medical Orders for Life-Sustaining Treatment" form containing an order that resuscitation not be attempted must be given the same effect as an emergency medical services "do not resuscitate order." The form is not an advance directive.

DHMH must adopt regulations regarding the "Medical Orders for Life-Sustaining Treatment" form and instructions for its completion and use, including instructions on how the form is revised or revoked. DHMH has to make the form and instructions available on its website.

Current Law: A health care facility must provide an admitted individual with the opportunity to prepare an "Instructions on Current Life-Sustaining Treatment Options" form to reflect the individual's preferences for treatment and care, including preferences regarding the use of life-sustaining procedures and the transfer to a hospital from a nonhospital setting. The voluntary form must be consistent with (1) the decisions of the patient or, if the patient is incompetent, of the patient's health care agent or surrogate decision-maker; and (2) any advance directive of the patient if the patient is incapable of making an informed decision.

State Fiscal Effect: DHMH and MIEMSS advise that a "Medical Orders for Life-Sustaining Treatment" form has already been developed in collaboration with the groups specified in the bill. As the form will be available online and any training or outreach can be handled with existing budgeted resources, the bill does not materially affect State operations or finances.

Additional Information

Prior Introductions: None.

Cross File: SB 203 (Senator Montgomery, *et al.*) – Finance.

Information Source(s): Office of the Attorney General, Maryland Institute for Emergency Medical Services Systems, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2011
ncs/mwc Revised - House Third Reader - March 22, 2011

Analysis by: Jennifer A. Ellick

Direct Inquiries to:
(410) 946-5510
(301) 970-5510