

SB 519 Advanced Medical Directive Notarization__DD

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MARYLAND DEVELOPMENTAL DISABILITIES COALITION

Dedicated to the rights and quality of life for people with developmental disabilities in Maryland

Senate Judicial Proceedings Committee

Senate Bill 519: Estates and Trusts—Wills and Advance Medical Directives—Notaries Public

Position: Oppose

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8601 Robert Fulton Dr
Suite 140
Columbia, MD 21046



1500 Union Avenue
Suite 2000
Baltimore, MD 21211



8835 Columbia 100 Pky
Suite P
Columbia, MD 21044



**Maryland Developmental
Disabilities Council**

217 E Redwood Street
Suite 1300
Baltimore, MD 21202



7000 Tudsbury Road
Windsor Mill, MD
21244

The Maryland Developmental Disabilities (DD) Coalition is comprised of five statewide organizations that are committed to improving the opportunities and outcomes for Marylanders with intellectual and developmental disabilities (I/DD). The DD Coalition seeks to ensure that people with I/DD do not face barriers to expressing their self-determination and civil rights, including when executing advanced medical directives. From this perspective, the DD Coalition opposes SB 519, which adds the requirement that advanced medical directives be notarized in Maryland.

WHAT does this legislation do?

- Current Maryland law requires that an advanced medical directive be witnessed by two individuals, with restrictions on who can serve as a witness to address conflicts of interest. This bill requires that for the valid execution of an advanced medical directive, a person must also have their document notarized.

WHY do we oppose this legislation?

- People with disabilities already face barriers to executing their own legal documents based on stereotypes and assumptions about their capabilities. This bill places an additional barrier of requiring a person to also obtain and pay for the services of a notary public just so that they can select who can make medical decisions for them if they are unable to.
- The vast majority of states do not require notarization for basic advanced medical directives.
- Given the COVID-19 pandemic and the corresponding rise in hospitalizations and need for better access to health care, initiatives should be centered on making it easier for people, including people with disabilities, to select health care agents, not more difficult. This bill creates additional hurdles at a time when many so desperately need immediate medical care.
- Safeguards are already in place under current Maryland law to ensure the validity of an advanced directive including ensuring that the document is signed by two witnesses and restricting who can be a witness to account for certain conflicts of interest. Adding additional requirements to ensure the validity of an advanced medical directive merely adds additional barriers for people with disabilities to access and exercise their fundamental right to make choices about their lives.

We believe this bill creates unnecessary barriers for people with disabilities to exercise their civil rights and select their own health care agents. Thus, we oppose SB 519. For additional information, contact Megan Rusciano, meganr@disabilityrightsmd.org.