



**BILL: HB 1323**

**POSITION: LOI – Letter of Information**

COMMITTEE: Health

DATE: March 9, 2026

SUBMITTED BY: Maryland Department of Disabilities  
217 East Redwood Street, Suite 1300, Baltimore, MD 21202

Dear Chair Bangall, Vice Chair Cullison, and Committee Members,

The Maryland Department of Disabilities (MDOD) submits this Letter of Information for HB 1323, the **Health Care Decisions Act - Surrogate Decision Making - Hospital Surrogate Committee**. This bill creates a mechanism for surrogate medical decision-making—a “surrogate committee”—for hospital patients who are designated as “unrepresented patients” because they lack other authorized decision-makers.

MDOD supports the overall goal of ensuring that unrepresented patients receive appropriate care, particularly in finding alternatives to legal guardianship. We participated as an ad hoc member of the Working Group on Alternatives to Guardianship for Unrepresented Hospital Patients in Need of Treatment and Discharge Decisions chaired by University of Maryland School of Law Professor Diane Hoffman. We offer the following observations for your consideration and are supportive of any amendments that may be offered by colleagues in the Maryland Department of Health.

### **1. Identifying “Unrepresented Patients” (New § 5-601(z))**

The definition requires the person to be certified as "incapable of making an informed decision".

- **MDOD Comment:** We seek clarity on the standards hospitals use for this certification and whether individuals can challenge it. We want to ensure that people with disabilities are not inappropriately certified as incapable of making decisions. Additionally, the criteria for determining patient wishes suggests that credible evidence for a patient’s wishes could only have come from "history" or "other parties." The surrogate committee may want to consider the patient’s current, direct communication if they are able to articulate choices, even if the hospital has previously deemed their decisions not "informed."



## 2. Committee Composition (New Health-General Article § 5-604.2(b))

The committee must include three external members, including a patient advocate, a patient/caregiver, and a representative from a disability or aging advocacy organization or an individual with a disability.

- **MDOD Comment:** MDOD is uncertain as to whether there is data from hospitals on how often hospitals anticipate the committee will need to meet. This data is needed to assess the feasibility of a requirement that relies heavily on (presumably unpaid) volunteers.

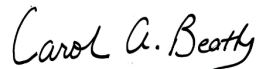
## 3. Consent and Termination of Committee Activities

The legislation requires the committee to give the patient verbal and oral notice of its authority [§ 5-605(c)(4)(ii)] and specifies that the committee's authority ends upon the patient's discharge [§ 5-605(c)(5)(ii)].

- **MDOD Comment:** It is unclear if a patient can decline involvement in the committee, particularly if they can understand the notice. It is also unclear how a patient can terminate the committee's oversight if their condition improves, and they regain decision-making capacity as a result of treatment.

Thank you for reviewing our letter of information.

Sincerely,



Carol A. Beatty  
Secretary, Department of Disabilities

