Maryland
Hospital Association

House Bill 1323- Health Care Decisions Act - Surrogate Decision Making - Hospital Surrogate Committee

Position: ***Support with Amendments***
March 11, 2026
House Health Committee

MHA Position

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment in support with amendments on House Bill 1323.

MHA supports the bill's effort to create a structured process for treatment decisions involving unrepresented patients who lack decision-making capacity and do not have an advance directive or available surrogate. Hospitals routinely care for patients who lack representation and have to wait, often for months, for a court-appointed guardian. These situations can be ethically complex and challenging for hospital care teams that want to provide care that is in the patient's best interests but do not have the legal authority to make decisions on the patient's behalf. A structured process that can enable clinicians to make any medically necessary decisions in these circumstances can help facilitate timely treatment and prevent disruptions in care.

However, while we appreciate that HB 1323 attempts to address these challenges, we are concerned about a one-size-fits-all mandate that requires all hospitals to establish these committees.

Hospitals vary in size, resources, governance structures, and processes. Many hospitals already rely on patient care advisory committees, ethics committees, or other interdisciplinary review mechanisms to guide complex medical decisions for patients without a surrogate. Requiring every hospital to establish and maintain a new committee with specific membership and procedural requirements could create operational challenges, particularly for smaller hospitals or facilities with limited staffing resources.

We respectfully request that the Committee consider an amendment that makes these committees optional rather than mandatory. This will ensure that hospitals are able to use these surrogate committees when appropriate while retaining flexibility to use existing decision-making structures and processes that are better aligned with their organizational capacity.

Maryland hospitals are committed to protecting the rights of patients who lack a surrogate decision maker and to facilitating timely provision of care in ways that are operationally feasible and better support both patients and care teams.

For these reasons, we request a favorable with amendments report on HB 1323.

Amendment 1

On page 2, line 22, modify § 5–604.2(A) as follows:

(A) ~~EACH~~ A HOSPITAL ~~SHALL~~ MAY ESTABLISH A SURROGATE COMMITTEE TO PROVIDE SURROGATE DECISION MAKING FOR AN UNREPRESENTED PATIENT.

Amendment 2

On page 7, line 30, section § 5–605(7)(I), strike "SHALL" and replace with "MAY"

(7) (I) IF AN UNREPRESENTED PATIENT'S ATTENDING PHYSICIAN DETERMINES THAT THERE IS A NEED TO MAKE HEALTH CARE DECISIONS FOR THE UNREPRESENTED PATIENT, THE ATTENDING PHYSICIAN ~~SHALL~~ MAY CONVENE THE SURROGATE COMMITTEE.

For more information, please contact:
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