

HOUSE BILL 82

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11r0567
CF SB 203

By: **Delegates Morhaim and Kipke**

Introduced and read first time: January 21, 2011

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 2, 2011

CHAPTER _____

1 AN ACT concerning

2 **Health Care Decisions Act – “Medical Orders for Life-Sustaining Treatment”**
3 **Form**

4 FOR the purpose of repealing certain provisions of law relating to the “Instructions on
5 Current Life-Sustaining Treatment Options” form; requiring the Department of
6 Health and Mental Hygiene, in conjunction with the Maryland Institute for
7 Emergency Medical Services Systems and the State Board of Physicians, to
8 develop and periodically revise a “Medical Orders for Life-Sustaining
9 Treatment” form and instructions for its completion and use; requiring that the
10 form and instructions be developed in consultation with certain individuals and
11 groups; requiring that the form be suitable for containing certain medical
12 orders; providing that the form is not an advance directive; requiring certain
13 health care facilities and authorizing other health care providers to use a
14 “Medical Orders for Life-Sustaining Treatment” form; requiring certain health
15 care facilities ~~and authorizing other health care providers to use~~ accept and
16 update or complete a “Medical Orders for Life-Sustaining Treatment” form for
17 certain patients during the admission process or, under certain circumstances,
18 during an inpatient hospital stay; requiring certain health care facilities and
19 health care providers, when updating or completing a “Medical Orders for
20 Life-Sustaining Treatment” form, to offer certain individuals the opportunity to
21 participate in the completion of a updating or completing the “Medical Orders
22 for Life-Sustaining Treatment” form; requiring health care facilities to note in a
23 patient’s medical record when certain individuals decline to participate in the
24 completion of a updating or completing the “Medical Orders for Life-Sustaining
25 Treatment” form; requiring, under certain circumstances, that certain health

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 care facilities offer any physician or nurse practitioner selected by the patient
 2 the opportunity to participate in updating or completing a “Medical Orders for
 3 Life–Sustaining Treatment” form; requiring, under certain circumstances, that
 4 certain health care facilities provide certain information to certain individuals;
 5 requiring, under certain circumstances, that a “Medical Orders for
 6 Life–Sustaining Treatment” form be consistent with certain health care
 7 decisions of certain individuals; requiring a health care facility to comply with
 8 the “Medical Orders for Life–Sustaining Treatment” form under certain
 9 circumstances; requiring certain health care providers to keep the “Medical
 10 Orders for Life–Sustaining Treatment” form in the patient’s medical record;
 11 requiring that the “Medical Orders for Life–Sustaining Treatment” form
 12 accompany certain patients and be given to certain individuals ~~under certain~~
 13 ~~circumstances~~ within a certain time period; requiring that the most recent
 14 “Medical Orders for Life–Sustaining Treatment” form be followed if there is a
 15 conflict between forms; authorizing a health care provider to rely in good faith
 16 on the presumed validity of a “Medical Orders for Life–Sustaining Treatment”
 17 form; requiring the Department to adopt certain regulations; requiring the
 18 Department to make the “Medical Orders for Life–Sustaining Treatment” ~~form~~
 19 ~~and form,~~ certain instructions, and training materials available on the
 20 Department’s Web site; authorizing the Department to print and distribute the
 21 form ~~and,~~ instructions, and training materials; requiring that a “Medical Orders
 22 for Life–Sustaining Treatment” form containing an order that resuscitation not
 23 be attempted be given the same effect as an emergency medical services “do not
 24 resuscitate order”; specifying that orders regarding life–sustaining treatment
 25 executed in another state are to be deemed valid under certain circumstances
 26 and construed in a certain manner; repealing the requirement that a nursing
 27 home offer patients an “Instructions on Current Life–Sustaining Treatment
 28 Options” form; requiring ~~certain health care facilities~~ nursing homes and
 29 assisted living programs, on or before a certain date, to complete a “Medical
 30 Orders for Life–Sustaining Treatment” form for certain patients admitted to the
 31 health care facility before a certain date, and to offer the patients or certain
 32 other individuals an opportunity to participate in the completion of the form;
 33 altering a certain definition; defining a certain term; and generally relating to
 34 health care decisions and the “Medical Orders for Life–Sustaining Treatment”
 35 form.

36 BY repealing

37 Article – Health – General

38 Section ~~5–602(f)(4)~~ 5–602(f)(3) and (4) and 5–608.1

39 Annotated Code of Maryland

40 (2009 Replacement Volume and 2010 Supplement)

41 BY repealing and reenacting, with amendments,

42 Article – Health – General

43 Section 5–608, 5–609, 5–617, 5–619, and 19–344(f)

44 Annotated Code of Maryland

45 (2009 Replacement Volume and 2010 Supplement)

1 BY adding to
2 Article – Health – General
3 Section 5–608.1
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2010 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Health – General**

9 5–602.

10 (f) ~~[(4) (3)]~~ If the care of a declarant is transferred from one health care
11 provider to another, the transferring health care provider may prepare an
12 “Instructions on Current Life–Sustaining Treatment Options” form in accordance with
13 § 5–608.1 of this subtitle.

14 (4) If the transferring health care provider prepares an “Instructions
15 on Current Life–Sustaining Treatment Options” form in accordance with § 5–608.1 of
16 this subtitle, the transferring health care provider shall:

17 (i) Take reasonable steps to ensure that the “Instructions on
18 Current Life–Sustaining Treatment Options” form is consistent with any applicable
19 decision stated in the advance directive of a declarant; and

20 (ii) Transmit the “Instructions on Current Life–Sustaining
21 Treatment Options” form to the receiving health care provider simultaneously with
22 the transfer of the declarant.]

23 5–608.

24 (a) (1) Certified or licensed emergency medical services personnel shall be
25 directed by protocol to follow emergency medical services “do not resuscitate orders”
26 pertaining to adult patients in the outpatient setting in accordance with protocols
27 established by the Maryland Institute for Emergency Medical Services Systems in
28 conjunction with the State Board of Physicians.

29 (2) Emergency medical services “do not resuscitate orders” may not
30 authorize the withholding of medical interventions, or therapies deemed necessary to
31 provide comfort care or to alleviate pain.

32 (3) A health care provider, other than certified or licensed emergency
33 medical services personnel, who sees, in a valid form, an emergency medical services
34 “do not resuscitate order” described in paragraph (1) of this subsection that is not
35 superseded by a subsequent physician’s order:

1 (i) May, before a patient's cardiac or respiratory arrest, provide,
2 withhold, or withdraw treatment in accordance with the emergency medical services
3 "do not resuscitate order"; and

4 (ii) Shall, after a patient's cardiac or respiratory arrest,
5 withhold or withdraw treatment in accordance with the emergency medical services
6 "do not resuscitate order".

7 **(4) AN ORDER CONTAINED IN A "MEDICAL ORDERS FOR**
8 **LIFE-SUSTAINING TREATMENT" FORM THAT RESUSCITATION NOT BE**
9 **ATTEMPTED SHALL BE GIVEN THE SAME EFFECT AS EMERGENCY MEDICAL**
10 **SERVICES "DO NOT RESUSCITATE ORDERS" DESCRIBED IN PARAGRAPH (1) OF**
11 **THIS SUBSECTION.**

12 (b) This section does not authorize emergency medical services personnel to
13 follow an emergency medical services "do not resuscitate order" for any patient who,
14 prior to cardiac or respiratory arrest, is able to, and does, express to those personnel
15 the desire to be resuscitated.

16 (c) This section does not authorize emergency medical services personnel in
17 the outpatient setting to follow an emergency medical services "do not resuscitate
18 order" that is in any form other than:

19 (1) An emergency medical services "do not resuscitate order" described
20 in subsection (a) of this section;

21 (2) An oral emergency medical services "do not resuscitate order"
22 provided by an online, emergency medical services medical command and control
23 physician; [or]

24 (3) An oral emergency medical services "do not resuscitate order"
25 provided by a physician, as defined in § 5-601 of this subtitle, or a nurse practitioner,
26 as defined in § 5-601 of this subtitle, who is physically present on the scene with the
27 patient and the emergency medical services personnel in the outpatient setting; **OR**

28 **(4) AN ORDER CONTAINED IN A "MEDICAL ORDERS FOR**
29 **LIFE-SUSTAINING TREATMENT" FORM.**

30 (d) (1) Except as provided in paragraph (2) of this subsection, in addition
31 to the immunity provided in § 5-609 of this subtitle and any other immunity provided
32 by law, an emergency medical services provider is not subject to criminal or civil
33 liability, or deemed to have engaged in unprofessional conduct as determined by the
34 appropriate licensing or certifying authority, arising out of a claim concerning the
35 provision of health care if:

1 (i) The claim is based on lack of consent or authorization for the
2 health care;

3 (ii) Subsection (a) of this section would ordinarily apply; and

4 (iii) The emergency medical services provider:

5 1. Acts in good faith in providing the health care; and

6 2. Believes reasonably that subsection (a)(1) of this
7 section does not apply.

8 (2) This subsection does not apply if the patient is wearing a valid,
9 legible, and patient-identifying emergency medical services “do not resuscitate order”
10 in bracelet form.

11 [5-608.1.

12 (a) The Office of the Attorney General shall develop an “Instructions on
13 Current Life-Sustaining Treatment Options” form suitable for summarizing the plan
14 of care for an individual, including the aspects of the plan of care related to:

15 (1) The use of life-sustaining procedures; and

16 (2) Transfer to a hospital from a nonhospital setting.

17 (b) The “Instructions on Current Life-Sustaining Treatment Options” form is
18 voluntary and shall be consistent with:

19 (1) The decisions of:

20 (i) The patient if the patient is a competent individual; or

21 (ii) If the patient is incapable of making an informed decision, a
22 health care agent or surrogate decision maker as authorized by this subtitle; and

23 (2) Any advance directive of the patient if the patient is incapable of
24 making an informed decision.

25 (c) The “Instructions on Current Life-Sustaining Treatment Options” form:

26 (1) May be completed by a health care provider under the direction of
27 an attending physician;

28 (2) If the attending physician has a reasonable basis to believe that
29 the “Instructions on Current Life-Sustaining Treatment Options” form satisfies the

1 requirements of subsection (b) of this section, shall be signed by the attending
2 physician;

3 (3) Shall be signed by:

4 (i) The patient if the patient is a competent individual; or

5 (ii) If the patient is incapable of making an informed decision, a
6 health care agent or surrogate decision maker as authorized by this subtitle;

7 (4) If signed by the patient in accordance with item (3)(i) of this
8 subsection, shall include contact information for the patient's health care agent;

9 (5) If signed by a health care agent or surrogate decision maker in
10 accordance with item (3)(ii) of this subsection, shall include contact information for the
11 health care agent or surrogate decision maker;

12 (6) Shall be dated;

13 (7) Shall include a statement that the form may be reviewed, modified,
14 or rescinded at any time;

15 (8) Shall designate under which conditions the form must be reviewed
16 or modified, including promptly after the patient becomes incapable of making an
17 informed decision; and

18 (9) Shall contain a conspicuous statement that the original form shall
19 accompany the individual when the individual is transferred to another health care
20 provider or discharged.

21 (d) A health care provider shall review any "Instructions on Current
22 Life-Sustaining Treatment Options" form received from another health care provider
23 as part of the process of establishing a plan of care for an individual.

24 (e) The Office of the Attorney General, in developing the "Instructions on
25 Current Life-Sustaining Treatment Options" form in accordance with subsection (a) of
26 this section, shall consult with:

27 (1) The Department;

28 (2) Religious groups and institutions with an interest in end-of-life
29 care;

30 (3) One or more representatives from the community of individuals
31 with disabilities; and

1 (4) Any other group the Office of the Attorney General identifies as
2 appropriate for consultation.]

3 **5-608.1.**

4 (A) IN THIS SECTION, "HEALTH CARE FACILITY" MEANS:

5 (1) AN ASSISTED LIVING PROGRAM;

6 (2) A HOME HEALTH AGENCY;

7 (3) A HOSPICE;

8 (4) A HOSPITAL;

9 (5) A KIDNEY DIALYSIS CENTER; OR

10 (6) A NURSING HOME.

11 (B) (1) (I) THE DEPARTMENT, IN CONJUNCTION WITH THE
12 MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS AND
13 THE STATE BOARD OF PHYSICIANS, SHALL DEVELOP AND ~~MAY~~ REVISE
14 PERIODICALLY A "MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT"
15 FORM AND INSTRUCTIONS FOR COMPLETING AND USING THE FORM.

16 (II) THE "MEDICAL ORDERS FOR LIFE-SUSTAINING
17 TREATMENT" FORM AND THE INSTRUCTIONS FOR ITS COMPLETION AND USE
18 SHALL BE DEVELOPED IN CONSULTATION WITH:

19 1. THE OFFICE OF THE ATTORNEY GENERAL;

20 2. THE STATE BOARD OF NURSING;

21 3. THE STATE ADVISORY COUNCIL ON QUALITY
22 CARE AT THE END OF LIFE; AND

23 4. ANY OTHER INDIVIDUAL OR GROUP THE
24 DEPARTMENT DETERMINES IS APPROPRIATE.

25 (2) THE "MEDICAL ORDERS FOR LIFE-SUSTAINING
26 TREATMENT" FORM DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION
27 SHALL BE SUITABLE FOR CONTAINING A PHYSICIAN'S OR NURSE
28 PRACTITIONER'S WRITTEN MEDICAL ORDERS RELATING TO A PATIENT'S
29 MEDICAL CONDITION, INCLUDING:

- 1 (I) THE USE OF LIFE-SUSTAINING PROCEDURES;
- 2 (II) THE USE OF MEDICAL TESTS;
- 3 (III) TRANSFER OF THE PATIENT TO A HOSPITAL FROM A
4 NONHOSPITAL SETTING; AND
- 5 (IV) ANY OTHER MATTER CONSIDERED APPROPRIATE BY
6 THE DEPARTMENT TO IMPLEMENT TREATMENT PREFERENCES AND ORDERS
7 REGARDING LIFE-SUSTAINING TREATMENTS ACROSS HEALTH CARE SETTINGS.
- 8 (3) THE "MEDICAL ORDERS FOR LIFE-SUSTAINING
9 TREATMENT" FORM IS NOT AN ADVANCE DIRECTIVE.

10 (c) (1) A HEALTH CARE FACILITY SHALL:

11 (i) 1. COMPLETE A "MEDICAL ORDERS FOR
12 LIFE-SUSTAINING TREATMENT" FORM OR ACCEPT A COMPLETED
13 "MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM DURING THE
14 ADMISSION PROCESS FOR EACH PATIENT BEING ADMITTED TO THE HEALTH
15 CARE FACILITY; AND

16 ~~(ii)~~ 2. UPDATE THE FORM AS INDICATED IN THE
17 INSTRUCTIONS FOR THE COMPLETION AND USE OF THE FORM; AND OR

18 (ii) COMPLETE A "MEDICAL ORDERS FOR
19 LIFE-SUSTAINING TREATMENT" FORM:

20 1. FOR A HEALTH CARE FACILITY THAT IS NOT A
21 HOSPITAL, DURING THE ADMISSION PROCESS FOR EACH PATIENT BEING
22 ADMITTED TO THE HEALTH CARE FACILITY; OR

23 2. FOR A HOSPITAL, DURING AN INPATIENT
24 HOSPITAL STAY FOR PATIENTS WHO ARE BEING DISCHARGED TO ANOTHER
25 HEALTH CARE FACILITY.

26 ~~(iii) OFFER A PATIENT, HEALTH CARE AGENT, OR~~
27 ~~SURROGATE DECISION MAKER THE OPPORTUNITY TO PARTICIPATE IN THE~~
28 ~~COMPLETION OF THE FORM.~~

29 (2) A WHEN A HEALTH CARE FACILITY UPDATES OR COMPLETES
30 A "MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM UNDER
31 PARAGRAPH (1) OF THIS SUBSECTION, THE HEALTH CARE FACILITY SHALL
32 NOTE:

1 **(I) OFFER THE PATIENT, HEALTH CARE AGENT, OR**
2 **SURROGATE DECISION MAKER THE OPPORTUNITY TO PARTICIPATE IN**
3 **UPDATING OR COMPLETING THE FORM; AND**

4 **(II) NOTE IN THE MEDICAL RECORD WHEN A PATIENT,**
5 **HEALTH CARE AGENT, OR SURROGATE DECISION MAKER DECLINES TO**
6 **PARTICIPATE IN ~~THE COMPLETION OF A “MEDICAL ORDERS FOR~~**
7 **~~LIFE SUSTAINING TREATMENT” FORM~~ UPDATING OR COMPLETING THE FORM,**
8 **INDICATING THE DATE AND WITH WHOM THE FORM WAS DISCUSSED;**

9 **(III) ON REQUEST OF THE PATIENT, OFFER ANY PHYSICIAN**
10 **OR NURSE PRACTITIONER SELECTED BY THE PATIENT THE OPPORTUNITY TO**
11 **PARTICIPATE IN UPDATING OR COMPLETING THE FORM; AND**

12 **(IV) INFORM THE PATIENT, HEALTH CARE AGENT, OR**
13 **SURROGATE DECISION MAKER THAT THE FORM WILL BECOME A PART OF THE**
14 **PATIENT’S MEDICAL RECORD AND CAN BE ACCESSED THROUGH THE**
15 **PROCEDURES USED TO ACCESS A MEDICAL RECORD.**

16 **(3) EXCEPT AS PROVIDED FOR A TREATMENT THAT HAS BEEN**
17 **CERTIFIED AS MEDICALLY INEFFECTIVE IN ACCORDANCE WITH § 5-611 OF THIS**
18 **SUBTITLE, THE “MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT” FORM**
19 **SHALL BE CONSISTENT WITH:**

20 **(I) THE KNOWN DECISIONS OF:**

21 **1. THE PATIENT IF THE PATIENT IS A COMPETENT**
22 **INDIVIDUAL; OR**

23 **2. A HEALTH CARE AGENT OR SURROGATE DECISION**
24 **MAKER AS AUTHORIZED BY THIS SUBTITLE; AND**

25 **(II) ANY KNOWN ADVANCE DIRECTIVE OF THE PATIENT IF**
26 **THE PATIENT IS INCAPABLE OF MAKING AN INFORMED DECISION.**

27 **(D) (1) A HEALTH CARE PROVIDER OTHER THAN A HEALTH CARE**
28 **FACILITY MAY CHOOSE TO USE A “MEDICAL ORDERS FOR LIFE-SUSTAINING**
29 **TREATMENT” FORM.**

30 **(2) A HEALTH CARE PROVIDER WHO CHOOSES TO USE A**
31 **“MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT” FORM SHALL OFFER A**
32 **PATIENT, HEALTH CARE AGENT, OR SURROGATE DECISION MAKER THE**
33 **OPPORTUNITY TO PARTICIPATE IN THE COMPLETION OF THE FORM.**

1 (E) THE ORIGINAL OR A COPY OF A “MEDICAL ORDERS FOR
2 LIFE-SUSTAINING TREATMENT” FORM SHALL:

3 (1) BE KEPT BY A HEALTH CARE PROVIDER IN THE PATIENT’S
4 MEDICAL RECORD;

5 (2) PHYSICALLY ACCOMPANY THE PATIENT OR BE TRANSMITTED
6 ELECTRONICALLY OR BY FACSIMILE IN ACCORDANCE WITH THE INSTRUCTIONS
7 FOR THE USE OF THE FORM WHEN THE PATIENT IS TRANSFERRED TO A HEALTH
8 CARE FACILITY; AND

9 (3) BE GIVEN TO THE PATIENT, HEALTH CARE AGENT, OR
10 SURROGATE DECISION MAKER ~~IF THE PATIENT RESIDES AT HOME OR IS~~
11 ~~DISCHARGED FROM A HEALTH CARE FACILITY TO THE PATIENT’S HOME~~ WITHIN
12 48 HOURS OF COMPLETION OF THE FORM OR SOONER IF THE PATIENT IS
13 TRANSFERRED OR DISCHARGED.

14 (F) EXCEPT AS PROVIDED IN § 5-611 OR § 5-613 OF THIS SUBTITLE, A
15 HEALTH CARE FACILITY SHALL COMPLY WITH ALL MEDICAL ORDERS
16 CONTAINED IN A “MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT”
17 FORM REGARDLESS OF WHETHER THE PHYSICIAN OR NURSE PRACTITIONER
18 WHO SIGNED THE FORM HAS ADMITTING PRIVILEGES OR IS OTHERWISE
19 CREDENTIALLED AT THE HEALTH CARE FACILITY.

20 (G) IN THE EVENT OF A CONFLICT BETWEEN MORE THAN ONE
21 “MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT” FORM, THE MOST
22 RECENT FORM SHALL BE FOLLOWED.

23 (H) A HEALTH CARE PROVIDER MAY RELY IN GOOD FAITH ON THE
24 PRESUMED VALIDITY OF A “MEDICAL ORDERS FOR LIFE-SUSTAINING
25 TREATMENT” FORM.

26 (I) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT
27 SPECIFY THE “MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT” FORM
28 AND THE INSTRUCTIONS FOR THE COMPLETION AND USE OF THE FORM THAT
29 ARE DEVELOPED AS REQUIRED BY SUBSECTION (B) OF THIS SECTION,
30 INCLUDING INSTRUCTIONS ON HOW A “MEDICAL ORDERS FOR
31 LIFE-SUSTAINING TREATMENT” FORM ~~BECOMES VOID~~ IS REVISED OR
32 REVOKED.

33 (2) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS
34 SUBSECTION SHALL BE CONSISTENT WITH THE HEALTH CARE DECISIONS ACT.

1 **(J) THE DEPARTMENT SHALL MAKE THE “MEDICAL ORDERS FOR**
2 **LIFE-SUSTAINING TREATMENT” FORM AND THE INSTRUCTIONS FOR THE**
3 **COMPLETION AND USE OF THE FORM, INCLUDING INSTRUCTIONS ON HOW THE**
4 **FORM IS REVISED OR REVOKED, AVAILABLE ON ITS WEB SITE AND MAY PRINT**
5 **AND DISTRIBUTE THE FORM, ~~AND~~ THE INSTRUCTIONS, AND TRAINING**
6 **MATERIALS.**

7 5-609.

8 (a) (1) A health care provider is not subject to criminal prosecution or civil
9 liability or deemed to have engaged in unprofessional conduct as determined by the
10 appropriate licensing authority as a result of withholding or withdrawing any health
11 care under authorization obtained in accordance with this subtitle.

12 (2) A health care provider providing, withholding, or withdrawing
13 treatment under authorization obtained under this subtitle does not incur liability
14 arising out of any claim to the extent the claim is based on lack of consent or
15 authorization for the action.

16 (b) A person who authorizes the provision, withholding, or withdrawal of
17 life-sustaining procedures in accordance with a patient’s advance directive, A
18 **“MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT” FORM**, or as otherwise
19 provided in this subtitle is not subject to:

20 (1) Criminal prosecution or civil liability for that action; or

21 (2) Liability for the cost of treatment solely on the basis of that
22 authorization.

23 (c) (1) The provisions of this section shall apply unless it is shown by a
24 preponderance of the evidence that the person authorizing or effectuating the
25 provision, withholding, or withdrawal of life-sustaining procedures in accordance with
26 this subtitle did not, in good faith, comply with the provisions of this subtitle.

27 (2) The distribution to patients of written advance directives in a form
28 provided in this subtitle and assistance to patients in the completion and execution of
29 such forms does not constitute the unauthorized practice of law.

30 (d) An advance directive made in accordance with this subtitle shall be
31 presumed to have been made voluntarily by a competent individual. Authorization for
32 the provision, withholding, or withdrawal of life-sustaining procedures in accordance
33 with this subtitle shall be presumed to have been made in good faith.

34 5-617.

35 An advance directive [or], AN emergency medical services “do not resuscitate
36 order”, OR AN ORDER REGARDING LIFE-SUSTAINING TREATMENT executed in

1 another state shall be deemed to be validly executed for the purposes of this subtitle if
2 executed in compliance with the laws of Maryland or the laws of the state where
3 executed. Advance directives [or], emergency medical services “do not resuscitate
4 orders”, **OR AN ORDER REGARDING LIFE–SUSTAINING TREATMENT** executed in
5 another state shall be construed to give effect to the patient’s wishes to the extent
6 permitted by the laws of Maryland.

7 5–619.

8 (a) In this Part II of this subtitle the following words have the meanings
9 indicated.

10 (b) [(1)] “Advance directive” has the meaning stated in § 5–601 of this
11 subtitle.

12 [(2) “Advance directive” includes an “Instructions on Current
13 Life–Sustaining Treatment Options” form developed under § 5–608.1 of this subtitle.]

14 (c) “Registrant” means an individual who registers an advance directive with
15 the Department.

16 (d) “Registry” means the repository for advance directives in the
17 Department.

18 19–344.

19 (f) (1) A resident of a facility:

20 (i) Shall participate in the planning of the medical treatment;

21 (ii) May refuse medication or treatment; and

22 (iii) May know the medical consequences of these actions.

23 (2) The facility shall:

24 (i) Have the informed consent of a resident before the resident
25 participates in any experimental research; and

26 (ii) Keep the resident’s written acknowledgment of that consent.

27 (3) The resident shall receive information about the relationship of the
28 facility to other health care institutions if the information relates to the care of the
29 resident.

30 (4) The resident shall receive reasonable continuity of care, including
31 information as to the availability of physicians and times for medical appointments.

1 [(5) (i) A facility shall offer a resident, upon admission, the
2 opportunity for the preparation of an “Instructions on Current Life–Sustaining
3 Treatment Options” form in accordance with § 5–608.1 of this article.

4 (ii) If a facility prepares an “Instructions on Current
5 Life–Sustaining Treatment Options” form in accordance with subparagraph (i) of this
6 paragraph, the form shall remain conspicuously in the front of a resident’s medical
7 records.]

8 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before ~~February~~
9 April 1, 2012, a ~~health care facility, as defined in § 5–608.1 of the Health – General~~
10 ~~Article, as enacted by Section 1 of this Act,~~ nursing home or assisted living program
11 shall:

12 (1) complete a “Medical Orders for Life–Sustaining Treatment” form,
13 developed in accordance with § 5–608.1(b)(1) of the Health – General Article enacted
14 by Section 1 of this Act, for each patient who was admitted to the ~~health care facility~~
15 nursing home or assisted living program before October 1, 2011, and who is a patient
16 of the nursing home or assisted living program on April 1, 2012; and

17 (2) offer the patient, health care agent, or surrogate decision maker
18 the opportunity to participate in the completion of the form.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.