

**State Advisory Council on Quality Care at the End of Life
Minutes from the February 24, 2017 Meeting**

Meeting time and place: February 24, 2017, 10:00 a.m., Office of Health Care Quality, 55 Wade Avenue, Spring Grove Hospital Center, Bland Bryant Building, Catonsville, Maryland.

Council members present: Ted Meyerson, Chair; Paul Ballard (Attorney General's designee); Sister Lawrence Mary Pocock;); Stevanne Ellis (Department of Aging's designee); Gail Amalia Katz; Gail S. Mansell, M. Jane Markley. On speakerphone: Lya Karm, Tom Smith; Linnette Rivera (Department of Disabilities' designee); Steve Levenson.

Others present: Alan Eason; Frederick G. Weinstein; Steve Glazer; Susan Lyons; Yvette Rode; Pavithra Madhanakumar.

Chairman Ted Meyerson convened the meeting at 10 am.

The Council discussed House Bill 188 concerning the Department of Health and Mental Hygiene's electronic advance directive program. Ted Meyerson noted that the regulations being drafted to implement the program were being held up because what is required might change depending upon whether House Bill 188 is enacted. House Bill 188 proposed certain amendments to the electronic advance directives program.

Paul Ballard noted that the Office of the Attorney General is opposing House Bill 188's deletion of the National Institute of Standards and Technology's (NIST) standards for authentication of electronic signatures. Steve Levenson stated that the bill would circumvent safeguards by not using national standards. He asked what the Spinal Injury Cord Fund was and Ted Meyerson responded that the fund was not being used and that was why it was used to fund the electronic advance directives program. Jane Markley also stated it was important to keep the NIST standards in place. Ted Meyerson asked the Council to support House Bill 188 with an amendment to keep the NIST standards in place. The Council voted to support House Bill 188 with amendments. Steve Levenson and the State agency designees present abstained.

The Council discussed House Bill 498/Senate Bill 562, which legislation would prevent persons who have filed for divorce or who are the subjects of protective orders from acting as health care agents under advance directives or as surrogate decision makers. Steveanne Ellis noted that some people have amicable divorces and that the ex-spouse may be desired as a health care agent or a surrogate decision maker. Paul Ballard stated he would draft a letter of concern for the Council to review.

The Council discussed House Bill 370/Senate Bill 354, the End of Life Option Act that would authorize physician assisted suicide. Gail Mansell did not like the bill's definition of "palliative care" and asked why the bill had not been amended since its last introduction in 2016 to address the issue of disposal of medications. Alan Eason stated he did not know the answer to her question but noted that the bill's proponents wanted to stick closely to existing laws in Oregon and Washington. He did note that after summer study of the bill a provision was added to

require the physician to meet alone with the patient. Steveanne Ellis noted that the Council should consider whether the bill's definition of "informed decision" was sufficient.

Steve Levenson stated that in Oregon only 24% of the patients who used the option had inadequate pain control. Rather, he stated that the issue was really mostly about existential considerations and that this bill presented a rather drastic solution to address that. He noted that prognostication of death is inexact, that stopping eating is quicker than the bill's waiting periods, that a tiny fraction of patients are ever referred for a mental health evaluation, that physicians frequently misdiagnose decision making capacity, and that many diagnoses are inaccurate. Thus, many of the safeguards for physician assisted suicide are mythical. He further noted that studies on these laws have not measured the accuracy of diagnosis, prognosis, whether there was a good discussion with the patient, the patient's decision making capacity, undue influence, or coercion. Although the patient dies from ingesting the medication, the cause of death is listed inaccurately as the patient's medical condition, which muddies the issue of suicide. Although he has been a staunch supporter of carrying out patient's wishes for 40 years, he believed that this bill goes too far.

Alan Eason stated that although he supports the bill, he thought Steve Levenson's points were excellent. Alan Eason stated his belief that the Council should not vote on the bill because a majority either way would look as if all the members agreed on that conclusion, when the vote might only reflect the opinion of a slight majority of the Council members present at the meeting. Steve Levenson agreed with this point and agreed that the Council should not vote on the bill. Ted Meyerson suggested that an email be sent to the Council members to review the issue and to first vote on whether to take a position. If the Council decides to take a position, then he will ask the Council to vote on whether it supports the bill. The Council members agreed to this suggestion.

Finally, the Council discussed National Health Care Decisions Day. Alan Eason updated the Council on his subcommittee's efforts. They have contacted Med Chi, which has agreed to send out a PDF to its members to reach out to physicians regarding National Health Care Decisions Day. Ted Meyerson recommended that the Council write a letter and get it into the hands of all physicians to encourage their patients to complete advance directives, particularly during the week of National Health Care Decisions Day. The Council supported that proposal. Steveanne Ellis also suggested that the Council place the letter on its website.

No further items of business being presented, Chairman Meyerson adjourned the meeting.