

## **State Advisory Council on Quality Care at the End of Life Minutes from February 29, 2008 Meeting**

**Meeting time and place:** February 29, 2008, 10:00 a.m., in the Department of Aging's Conference Room, 301 West Preston Street, Room 1007.

**Council members present:** Cynda Rushton, Chair; Catherine Boyne; Karen Kauffman; Timothy Keay; Ted Meyerson; Rev. Dan Mindling (by speaker phone); Jack Schwartz (Attorney General's designee); Catherine Stavely.

**Others present:** Barbara Blaylock; Harold Bob; Carlessia Hussein; Teresa Jeter-Cutting; Ethan Moore; Gloria Ramsey; Fran Stoner; Gary Wilks.

Dr. Rushton convened the meeting at 10:00 and welcomed Council members and guests.

The vast majority of the meeting consisted of status reports on, and Council discussion about, bills currently pending in the General Assembly.

■ *House Bill 118 and Senate Bill 45:* These companion bills, as introduced, add the Secretary of Disabilities to the list of *ex officio* Council members. The Council had previously decided to support the bill. Mr. Schwartz reported that the SB 45 passed the Senate without amendment. HB 118 passed the House with one amendment: to add another member to the Council, representing hospital interests. There was some discussion about the importance of the Council's not becoming a forum for political debate among various health care constituencies, but the consensus was that ongoing participation by a hospital representative would be positive.

■ *House Bill 251 and Senate Bill 355:* These companion bills, as introduced, require facilities to disclose key elements of their procedures on the use of life-sustaining treatments. Mr. Schwartz reported that associations representing hospitals and nursing homes had proposed an amendment to strip the disclosure requirements from the bill, leaving only the section calling on the Council to develop points to consider, model language, and the like. The Council's consensus was that a narrowing of the disclosure requirement might be an acceptable compromise, but abandoning it altogether was not.

■ *House Bill 510:* This bill would authorize electronic signatures on advance directives. Mr. Schwartz reported that the bill was favorably reported by the House committee without amendment.

■ *House Bill 906 and Senate Bill 766*: These companion bills revise the Maryland Anatomical Gift Act, to update a law that was enacted 40 years ago. The Council had previously approved recommending an amendment to clarify the wording of a provision intended to maintain appropriate standards of end-of-life care in case of inconsistent clinical requirements between implementing a patient’s advance directive and implementing the patient’s organ donation. The question before the Council was whether to support an additional amendment that, in case of such a conflict, those involved in attempting to resolve it may seek the assistance of a patient care advisory committee (commonly referred to as an ethics committee). Those favoring the amendment emphasized the usefulness of the ethics committee process in clarifying issues without pushing for any particular outcome. Those opposed were concerned that ethics committee involvement at the behest of organ procurement personnel might be seen as pressuring clinicians. **Council action:** A motion to support the amendment passed 5-3 (Boyne, Kauffman, Mindling, Rushton, Schwartz in favor; Keay, Meyerson, Stavelly opposed).

■ *House Bill 1140 and Senate Bill 889*: These companion bills would authorize nurse practitioners (NPs) to make certain certifications that, under current law, are made by physicians. Affecting the Health Care Decisions Act, the bills would authorize NPs to take an oral advance directive; certify a patient’s incapacity for purposes of giving effect to an advance directive (but not with respect to surrogate decision making); and issue EMS/DNR orders under some circumstances. Council debate focused on the potentially valuable role of NPs in furthering implementation of patient wishes in situations where physicians are unavailable, as against concerns about the qualifications and training of NPs to carry out capacity assessment. An amendment was proposed to support the portions of the bills relating to the Health Care Decisions Act, while emphasizing that expanded responsibilities require appropriate additional training. **Council action:** The motion passed 5-3 (Boyne, Kauffman, Mindling, Rushton, Schwartz in favor; Keay, Meyerson, Stavelly opposed).

■ *House Bill 733 and Senate Bill 556*: These companion bills would give certain visitation and medical decision making rights to “domestic partners,” a term defined as two individuals who have agreed to be “in a relationship of mutual interdependence,” as evidenced by a variety of documents. The question before the Council was whether to support the provision in the bills that adds domestic partner to the surrogate list in § 5-605 of the Health Care Decisions Act, in the category currently limited to a spouse. (Given the Council’s jurisdiction, Mr. Schwartz suggested, comment on other provisions in the bill would be inappropriate.) Those favoring this provision emphasized the increasing number of people, especially among the elderly, who for a variety of reasons do not get married yet depend upon their partners in a medical crisis. Those opposed to the provision pointed out that unmarried individuals were free under current law to

name whoever they wanted as health care agents and that some of the documentation that could be presented as evidencing a domestic partnership did not establish an intent to have medical decisions made by the partner. **Council action:** A motion to support this provision in the bills passed 6-1-1 (Boyne, Kauffman, Meyerson, Rushton, Schwartz, Stavelly in favor; Mindling opposed; Keay abstained).

The meeting also included remarks by Dr. Carlessia Hussein, head of the Office of Minority Health and Health Disparities in the Department of Health and Mental Hygiene, concerning the impact of distrust among minority groups on access to appropriate end-of-life care. This was a follow-up to the presentation at the December meeting by Gloria Ramsey, JD, RN, of the Uniformed Services University of the Health Sciences, on issues in end-of-life care for racially and ethnically diverse populations. Time limitations prevented a fuller discussion at this meeting, but Dr. Hussein welcomed the Council's efforts to identify a useful initiative and expressed a desire to work closely with the Council in future meetings.

Time limitations also prevented discussion of two agenda items, on the Council's process for deciding legislative positions outside of regularly scheduled meetings and follow-up actions to the pediatric palliative care report. These items will be carried over to the next meeting.

The Council set the next meeting for Thursday, May 15, 2008, at 10:00 at the Department of Aging.

No further items of business having been presented, Dr. Rushton adjourned the meeting at 12:25.