

**State Advisory Council on Quality Care at the End of Life  
Minutes from the May 18, 2016 Meeting**

**Meeting time and place:** May 18, 2016, 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); Tricia Nay (Department of Health and Mental Hygiene’s designee); Sister Lawrence Mary Pocock; Karren Pope-Onwukwe; William Frank (Department of Disabilities’ designee); Delegate Dan Morhaim; Hank Willner. On speakerphone: M. Jane Markley; Steve Levenson; Gail Amalia Katz; Gail S. Mansell, Tom Smith; Marian Grant; Lynn McPherson.

**Others present:** Alan Eason; Frederick G. Weinstein; Sally Hunt; Elena Boisvert; Jeffrey Meister; Nicki McCann.

Chairman Ted Meyerson convened the meeting at 10:00 a.m.

Paul Ballard consulted with the Council regarding proposed revisions to the MOLST form that had been approved by the Department of Health and Mental Hygiene, the Board of Physicians, and the Maryland Institute for Emergency Medical Services Systems. Mr. Ballard explained that there are four proposed changes to the MOLST form: (1) a voluntary signature by the patient or authorized decision maker (although such a signature would not be required to make a MOLST form valid); (2) an insertion of the term “other” in Section 4b on hospital transfers to clarify that pain is considered to be a “severe symptom” that would warrant transfer to the hospital; (3) a clarification in the instructions regarding who may review and update a MOLST form; and (4) a revision of the certification section to expressly state when the basis is medical ineffectiveness rather than merely implying medical ineffectiveness under the form’s current language that reads: “ other legal authority in accordance with all provisions of the Health Care Decisions Act. All supporting documentation must be contained in the patient’s medical records.” Tricia Nay explained that this last revision was meant to clarify that this provision was meant to authorize orders based on certifications of medical ineffectiveness in accordance with the Health Care Decisions Act. Mr. Ballard explained that the option of having a patient or authorized decision maker’s signature option was desired by some consumers and that having a voluntary signature without affecting the validity of the MOLST form in the absence of such a signature was the compromise. The consensus of the Council was to approve of the proposed changes to the MOLST form.

The Council discussed House Bill 1385 which had been passed by the General Assembly. House Bill 1385 promotes the use of electronic advance directives by eliminating the witness requirement for electronic advance directives signed electronically if the declarant’s identity has been established in accordance with specified standards established by the National Institute of Standards and Technology (NIST), by permitting video advance directives, by funding an advance directive program to enable electronic advance directives to be registered with CRISP Health Information Exchange through electronic advance directive services recognized by CRISP, to amend the Department’s information sheet to encourage the use of electronic advance

directives, and to require the Department to engage in outreach efforts to promote the use of electronic advance directives.

Ted Meyerson explained that the bill was amended multiple times and that the Maryland Health Care Commission would come up with standards to recognize the validity of electronic advance directive services to be recognized by CRISP. Karren-Pope Onwukwe asked if paper advance directives could be uploaded onto CRISP and Ted Meyerson responded that the bill does not preclude the uploading of paper advance directives.

Tricia Nay noted that people are going to think an electronic advance directive that has been printed out requires two witnesses unless it is has been designated otherwise. Steve Levenson noted that the bill seemed to clearly require that the advance directive program has to approve of the advance directive's witnesses prior to accepting the advance directive into the program's electronic system. Karren Pope-Onwukwe asked whether there will be a fee consumers will have to pay to register the advance directives. Ted Meyerson explained that CRISP cannot charge consumers a fee. Rather, the electronic advance directives services would receive money from the Maryland Health Care Commission. There will be funding made available from the Spinal Cord Research Program to fund the program. Delegate Morhaim stated that the bulk of the bill was devoted to education and outreach and that CRISP was going to assure the quality and security of the vendors that would submit advance directives electronically to the program.

House Bill 91 passed that requires the Governor to annually proclaim National Healthcare Decisions Day in Maryland. National Healthcare Decisions Day is on April 16. Karren Pope-Onwukwe suggested reaching out to the Elder Law Section of the Maryland State Bar Association. Tricia Nay recommended that the Council form a subcommittee to discuss ways to participate. In response to Bill Frank's question regarding how many people have completed advance directives, Delegate Morhaim stated about 30 – 35 % of people had completed them but that 60 – 65 % said they wanted to complete one. Jane Markley noted that many people that do complete advance directives in a mass gathering do so in a vacuum without having a conversation with the health care agent they appoint in the advance directive. She also noted the problem of people who have no one they can trust to select as their health care agent. She volunteered to serve on a subcommittee. Karren Pope-Onwukwe and Alan Eason also volunteered.

Paul Ballard discussed Senate Bill 336, Designation of Lay Caregivers in Hospitals, which was passed and requires a hospital to ask if a patient or their guardian wishes to designate a lay caregiver. If so, the hospital would need to inform the lay caregiver in a discharge plan what aftercare they would need to provide to the patient after discharge from the hospital. Hospitals may meet this requirement by complying with standards already set by the Joint Commission and the Centers for Medicare and Medicaid Services. The bill specifically states that it does not affect the right of a health care agent to make health care decisions. Karren Pope-Onwukwe stated her understanding that the purpose of the bill was to help to prevent the patient from returning to the hospital because the lay caregiver did not know how to care for the patient because of unclear home care instructions.

Tricia Nay updated the Council regarding the status of the pending palliative care program regulations. She stated that the Maryland Health Care Commission conducted a study and prepared a report. In response, the Office of Health Care Quality has drafted regulations and will soon be sending out the draft regulations for public comments. Delegate Morhaim noted that hospitals are voluntarily establishing palliative care programs. Tricia Nay responded that the existing palliative care programs vary in their robustness.

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