

**State Advisory Council on Quality Care at the End of Life
Minutes from September 7, 2007 Meeting**

Meeting time and place: September 7, 2007, 10:00 a.m., in the Department of Planning's Conference Room, 301 West Preston Street, 11th floor.

Council members present: Dr. Cynda Rushton, Chair; Ms. Catherine Boyne; Ms. Karen Kauffman; Dr. Timothy Keay; Mr. Mike Lachance (Secretary of Aging's designee); Dr. Steve Levenson; Mr. Ted Meyerson; Rev. Dan Mindling; Mr. Jack Schwartz (Attorney General's designee); Ms. Catherine Stavely; Mr. William Vaughan (Secretary of Health and Mental Hygiene's designee).

Others present: Dr. Melody Hu; Ms. Sue Huff; Dr. Dan Leviton; Mr. Reuben Miller; Ms. Fran Stoner; Ms. Kelley Ray.

Dr. Cynda Rushton convened the meeting at 10:00 and welcomed the Council members and guests. Mr. Lachance conveyed greetings from Secretary Lawlah.

The first portion of the meeting was devoted to current items of interest raised by Council members and guests.

- Ms. Kauffman announced that the Alzheimer's Association had released guidelines for end-of-life care for patients with this disease. The guidelines are available at this link: http://www.alz.org/documents/DCPRPhase3_.pdf (2)
- Mr. Schwartz reported back to the Council on the concern, expressed at the April meeting, that in some cases EMS/DNR bracelets are cut off in the ambulance or upon the patient's arrival at a hospital. Mr. Schwartz indicated that MIEMSS had not received reports of such a problem but would emphasize in its training the importance of retaining this form of documentation.
- Mr. Schwartz informed the Council that the federal Department of Health and Human Services is developing a report to Congress on advance care planning, to include the perspectives of persons with disabilities.
- Finally, Mr. Schwartz informed the Council that he would attend a meeting in late November focused on the Physician's Order for Life-Sustaining Treatment (POLST), which with some variations is in use in more than a dozen states. He will gather information for a discussion of this topic at a future Council meeting.

The next item considered was Mr. Schwartz's update on the renaming of the Patient's Plan of Care form. He distributed a revised draft of the form and accompanying regulations and indicated that, in a few weeks, they would be submitted to the Maryland

Register, to be published for comment. Members discussed the readability of the form, noting the difficulty of simplifying the text of a document that must accurately present clinical issues. Others pointed out that the form is intended as the summary of a conversation with a clinician, during which terms and concepts could be explained. Also, the Attorney General's Office has issued an explanatory guide to the form at a fairly basic reading level. Discussion then turned to the problem of hospital policies that are outdated, do not take account of the Patient's Plan of Care form, and serve as a barrier to its effective use. Mr. Schwartz said he would raise the matter with the Maryland Hospital Association and look for opportunities for a renewed educational effort.

Next, Mr. Schwartz told the Council that Delegate Pendergrass, the House of Delegates representative on the Task Force to Study Electronic Health Records, had indicated interest in amending the Health Care Decisions Act to explicitly authorize electronic signatures and otherwise to facilitate creation of advance directives electronically. Although Mr. Schwartz expressed his personal view that this was a good idea, no Council action was called for until a specific bill was introduced.

The next item was a discussion of determinations of incapacity. Mr. Schwartz presented a summary of research by Lisa Treece, a University of Maryland School of Law student who worked in the Attorney General's Office over the summer. The research summarized all 50 states' laws on incapacity determinations. Of interest, Mr. Schwartz pointed out, were the nearly two dozen states that, in one or another context, authorized this determination to be made by the attending physician alone. The consensus of Council discussion was that Maryland's two-physician requirement was sound policy - a useful safeguard given wide variances in capacity assessment practices. One member added that the two-physician requirement, by its reassurance that personal decision-making rights will not be too readily taken away, might promote the use of decisional advance directives, especially among groups whose historical experience or vulnerability have made them skeptical of how advance directives are used in practice. Instead of any proposal to change the Health Care Decisions Act, Council members agreed that a "points to consider" document might be useful, aimed at helping physicians recognize the range of pertinent clinical and other factors that should not be overlooked in coming to a prudential judgment about a patient's capacity. Mr. Schwartz said that he would work on a draft of such a document for discussion at a future meeting.

Emerging from this discussion was a related but separate point expressed by several members - that a gap exists between the procedures specified in the Health Care Decisions Act (for example, as discussed, two-physician incapacity certifications) and frequent clinical practice, especially in hospitals. A suggestion was made that the Council send a letter to the Joint Commission urging its attention to this problem in accreditation surveys.

The next item was a brief presentation by Professor Emeritus Dan Leviton, of the University of Maryland's Department of Public and Community Health. Professor Leviton described the topics covered in a "death education" course that he had developed and taught. He expressed the view that similar educational efforts could be beneficial across the age span and urged the Council to use its influence to promote this objective. Dr. Rushton commended him for his efforts and thanked him for the informative presentation.

Dr. Rushton and Mr. Schwartz then updated the Council on data collection efforts in furtherance of a report to the General Assembly on pediatric palliative care, to be submitted jointly by the Council and the Maryland Health Care Commission. Members commented on the implications of the report for other populations (e.g., geriatric care needs).

Next the Council discussed what role, if any, it should play in Maryland activities related to National Health Care Decisions Day, to be held on April 16, 2008. While the Council supports the concept, members unanimously agreed that, given the Council's advisory role and lack of resources, it cannot undertake the logistical and administrative effort that a lead or coordinating role would entail. The Council will support efforts led by other organizations and will consider sending a letter to the Governor and General Assembly leaders to urge official recognition of the event.

Discussion of the last agenda item, concerning end-of-life care for members of racial and other minority groups, was deferred owing to lack of time. Dr. Rushton requested that Council members think of guests who might help inform that discussion.

The Council set its next meeting for Friday, December 14, 2007, at 10:00 at the Department of Aging.

No further items of business having been presented, Dr. Rushton adjourned the meeting at 12:05.