

**State Advisory Council on Quality Care at the End of Life  
Minutes from December 2, 2005 Meeting**

**Meeting time and place:** December 2, 2005, 10:00 a.m., in the Department of Aging's Conference Room, 301 West Preston Street, 10th floor.

**Council members present:** Dr. Cynda Rushton, Chair; Ms. Lennita Anderson-Selvey; Ms. Ruth Eger; Ms. Murt Foos; Dr. Timothy Keay; Ms. Wendy Kronmiller (Secretary of Health and Mental Hygiene's designee); Dr. Steve Levenson; Rev. John Daniel Mindling; Mr. Ted Meyerson; Mr. Jack Schwartz (Attorney General's designee); Mr. Paul Seifert (Secretary of Aging's designee); Ms. Catherine Stavelly.

**Others present:** Mr. Jim DeBoy; Dr. Lynn Hallarman; Mr. Steven Johnson; Ms. Mary O'Byrne; Ms. Fran Stoner; Dr. Gary Wilks.

Dr. Cynda Rushton convened the meeting at 10:00 and welcomed the Council members and guests. Mr. Seifert greeted attendees on behalf of Secretary Jean Roesser and the Department of Aging.

The first topic of discussion was the Patient's Plan of Care form (PPOC), which became effective on October 1, 2005. Mr. Schwartz reported on the questions that have been raised so far during the early implementation of the form. Discussion focused on the importance of training and of sound institutional policies and procedures, such as those that could be based on the Council's *Ethical Framework*. Dr. Wilks informed the Council that the Hebrew Home and its allied Research Institute were planning to undertake a research project aimed at evaluating aspects of the PPOC. Council members thanked Dr. Gary Wilks for his leadership in this. Murt Foos reported that Ms. Lois Smith, the widow of a patient who had been in hospice care before his death, had made a monetary contribution to support the Hebrew Home's research effort. Council members expressed their appreciation for this notable generosity.

Mr. Schwartz also reported on the ongoing project of the American Bar Association's Commission on Law and Aging to develop a guide for Maryland proxies, as a prototype for such guides elsewhere; informed the Council of a series of articles on end-of-life care in the latest issue of the *Hastings Center Report*; and distributed "A Statement of Common Principles on Life-Sustaining Care and Treatment of People with Disabilities," issued in October and so far endorsed by 32 organizations.

The Council then turned to a proposed report on advance directive registries, which it had discussed at two prior meetings. **Council action:** *The Council unanimously approved issuance of the final report, to be transmitted to the Governor and General Assembly.*

The next agenda item was discussion of Mr. Schwartz's "trial balloon" to revise the statutory advance directive forms. An earlier draft had been discussed at the Council's September meeting. Mr. Schwartz noted that few comments had been submitted on the revised draft. One, from Rev. Mindling, questioned whether the language about the effectiveness of the health care agency document, in so far as it permitted a transfer of decision-making authority without two physicians' certification of incapacity, might be insufficiently protective of the welfare of vulnerable patients. Council members commented that the underlying issue, not affected one way or the other by the form, is a shortfall in physicians' performance of capacity assessment. Another comment, in support of the draft language, pointed to the value of giving physicians language for making their judgments about capacity more explicit (that is, whether incapacity is a temporary result of fever or medication, for example, or a permanent consequence of a disease process). A second major topic of discussion focused on the issue of whether a patient's preferences about life-sustaining treatments should be invited to be identified as guidance only. Council members and guests offered comments and suggestions on other aspects of the draft as well. Mr. Schwartz, noting both the probability that the Attorney General's Office will likely proceed with this proposal and the tyranny of the legislative calendar, invited further comments but asked that they be submitted within a week or so. **Council action:** *The Council, by consensus rather than formal vote, indicated its support for the Attorney General's effort to improve the statutory forms. The Council indicated its willingness to submit written and possibly oral testimony supporting legislation for this purpose, subject to an opportunity to review the actual text of a bill via an e-mail poll of Council members.*

Discussion then turned to another probable legislative proposal by the Attorney General's Office: clarifying that a surrogate decision maker may act when a health care agent, although previously designated by the patient, is unavailable; and authorizing a certification of incapacity to be made by either two physicians or one physician and one psychologist. Discussion focused on the latter provision, especially on the need to assure that the psychologists given this authority would have sufficient educational background and clinical skills. **Council action:** *The Council, by consensus rather than formal vote, indicated its support for the Attorney General's effort to develop this legislation. The Council indicated its willingness to submit written and possibly oral testimony supporting the legislation, subject to review of revised text related to psychologist authority via an e-mail poll of Council members.*

Dr. Rushton then invited a discussion about the Council's role in advancing the public policy recommendations in the report of the Pediatric Palliative Care Coalition. Council members spoke favorably of the policy goal of enabling the delivery of hospice-type services when death is highly probable but a prognosis that death will occur within six

months is not feasible, given that cancer and other diseases are often more unpredictable in children than adults. **Council action:** *The Council, by consensus rather than formal vote, indicated its willingness to explore with the State Medicaid Program how to remove the barrier of the six-month prognosis requirement in order to develop a more effective palliative care benefit for children with life-threatening illnesses. A subcommittee (Rushton, Eger, Keay, Hallarman, Schwartz, Wilks) will examine this issue in more detail.*

Dr. Rushton observed that time did not allow for full discussion of the agenda item on the Council's progress and priorities, and so this item will be deferred until the next meeting. The Council set this for February 24, 2006, at 10:00 at the Department of Aging.

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