

**State Advisory Council on Quality Care at the End of Life
Minutes from the December 21, 2015 Meeting**

Meeting time and place: December 21, 2015, 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); Rabbi Michael Safra; Marian Grant; Hope Miller; Delegate Dan Morhaim; M. Jane Markley; Catherine Stavely; Steve Levenson; William J. Frank (Department of Disabilities’ designee); Stevanne Ellis (Department of Aging’s designee); Tricia Nay (Department of Health and Mental Hygiene’s designee). On speakerphone: Hank Wilner; Mary Lynn McPherson; Gail Amalia Katz.

Others present: Alan Eason; Frederick G. Weinstein; Susan Lyons; Anya Naegele; Anita Tarzian; Tiffany Callender; Sally Hunt; Sally Hunt; Elena Boisvert.

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

Catherine Stavely reported on the legislative workgroup studying the 2015 death with dignity bill. She stated that the bill is not likely to change. Examples of concerns that have been expressed by some workgroup members include the requirement of self-administration of aid in dying medication and the meaning of “coercion.” No bill for 2016 has yet been introduced. Ted Meyerson asked whether the Council would like to convene a meeting to discuss the bill when it is introduced. It was the consensus of Council members that they should convene a meeting when the bill is introduced.

Ted Meyerson asked the Council to support a proposal by the Maryland Health Care Commission to expand the use of electronic advance directives by repealing the existing law regarding the Department of Health and Mental Hygiene’s advance directive registry and replacing it with legislation supporting the use of cloud-based technology for electronic advance directives by making electronic advance directives available to health care providers through the the Chesapeake Regional Information System (CRISP), the State-Designated health information exchange (HIE). CRISP would recognize multiple vendors that meet certain accepted technology and privacy and security standards as an approved electronic advance directives registry that can connect to the HIE. Funding of approved electronic advance directive repository interface development and ongoing maintenance costs to the HIE would be a requirement of the vendor.

The legislation would require commercial carriers and managed care organizations to offer electronic advance directives to their members during open enrollment. Commercial carriers and managed care organizations would have the flexibility to negotiate contracts with approved electronic advance directives repository vendors. The State of Maryland would be encouraged to offer electronic advance directives to their members during open enrollment. The Motor Vehicle Administration would be encouraged to provide a method by which an individual, on request, may have a notation placed on the individual’s driver’s license or identification card indicating that the individual has an electronic advance directive. And other

appropriate institutions and agencies would be encouraged to promote the awareness of electronic advance directives.

Steve Levenson asked whether paper advance directives would be included in the proposed electronic advance directive repositories. Ted Meyerson said they could be uploaded. Steve Levenson asked about the issue of electronic signatures. Paul Ballard stated that the legislation would have to be clear regarding how electronic signatures would be witnessed. Steve Levenson stated his discomfort with any proposal that would not have the signature witnessed in the presence of the signatory, which provides safeguards to insure the authenticity of the advance directive. Ted Meyerson stated that the bill would need to amend the Health Care Decisions Act's advance directive witness provisions by making valid an electronic advance directive received in CRISP's health information exchange but not witnessed in the presence of the declarant if the electronic advance directive meets National Institute of Standards and Technology-approved authentication standards and other technology, privacy, and security standards approved by CRISP.

Steve Levenson stated that an electronic signature is acceptable if there is the actual signature on file. Delegate Morhaim stated that the fiscal and policy note for House Bill 1106 explained how the witnessing of electronic signatures would be handled. He noted that the electronic trail may make the electronic advance directive more protective than paper advance directives. Steve Levenson said that may be the case but that would have to be further explored. Ted Meyerson said the issue had been explored enough. He noted that Paul Ballard was in favor of a legislative solution that would use video to authenticate the electronic advance directive. Paul Ballard distributed draft legislation that would use that method of authentication.

Ted Meyerson asked the Council to approve the proposal outlined by the Maryland Health Care Commission. The Council voted to support this legislative proposal. (Yes: Ted Meyerson; Rabbi Michael Safra; Marian Grant; Hope Miller; Delegate Dan Morhaim; M. Jane Markley; Catherine Stavelly; Hank Wilner; and Gail Amalia Katz). Abstained: Steve Levenson.

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