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THE MARYLAND HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401

Testimony in Support of HB 80

Health – Accessibility of Electronic Advanced Care Planning Documents

Good afternoon, Vice Chairman Peña-Melnyk, Chairman Pendergrass and honorable members of the committee. Thank you for this opportunity to present **HB 1073, Health – Accessibility of Electronic Advanced Care Planning Documents**. The purpose of this bill is to begin to implement the policies and actions that accompany our State's commitment to assuring that every person's voice is heard and wishes honored near the end of life. It does this creating ready access to a secure platform where electronic advanced care documents, such as advanced care directives and identification of a health care agents can be uploaded at four health care access points, physicians, insurance carriers, managed care organizations, and long term care facilities.

In 2002, the State Advisory Council on Quality Care at End of Life was created in statute. A primary role of the Council is to study the impact of policies and regulations in the provision of care at the end of life. In December 2020 the Council provided us with a report and recommendations about how to increase the ability of individuals make sure their wishes are known about the level of care they wish to receive at that point, especially if they are not able to express those wishes to the providers. There are essentially two ways to accomplish this, identifying a health care agent whom you give permission to speak for you and an actual document, an advanced directive. Ideally a health care provider who is treating you should have access to both of these pieces of information. The Council estimates that just over a million people actually have them, they are paper documents stored in some secure place, which may not be available to the provider in an emergency.

In the 2020 report, the Council made recommendations about how to address this issue. This bill was written to implement those recommendations. Public education about why this is important is a significant element and the bill charges the Department of Health to develop information to disseminate through every available health care entry point. In fact the Motor Vehicle Information has been waiting for five years for such a document since it was mandated to send it out in their communications with residents. This is a document that could be placed in health care settings and indeed in most government settings.

However, education is not enough. Talking about end of life is difficult for people, when they are at that stage and before then they do not consider it necessary. I would content that the best time to have that conversation with the person you would trust to be your health care agent if needed and complete a document that identifies your wishes when you do not need it, so it is there in case of an emergency.

This bill requires that health care providers inform patients of the importance of having these documents. There is actually a reimbursement code for having this discussion with patients. It also requires long term care facilities to encourage incoming residents to complete advance care documents and identify a health care agent. In addition, insurance carriers and managed care organizations are required to provide this information and encouragement as well.

The location of that information is critical; if you cannot speak for yourself, the health care provider will make independent decisions based on the most intensive care if they have directions from an agent or the documentation. If this information is uploaded to a State approved secure platform, with the permission of the individual, it could be shared with health care providers when urgently needed when there is a possibility of death. So the most important part of the bill is the development of connectivity of the currently existing technological services in the State, such as electronic health records, CRISP and the carriers website. However, these entities would only serve as an entry point to a secure platform, behind a firewall, which would be accessible to appropriate health care providers in urgent situations. I am proposing an amendment that will require the MHCC to identify the platform that could accept and store uploaded documents in the most secure way.

There are additional amendments I will be offering to clarify that EHRs and carriers websites will NOT be storing the documents, and a few other technical changes.

We as a body have demonstrated time and time again that we believe that people have a voice in their health and quality care at the end of life is extremely important. We have to give folks every opportunity to make their wishes known. For that reason I respectfully request a favorable report.