

SENATE BILL REPORT

SB 5908

AS OF MARCH 2, 1993

Brief Description: Concerning the patient self-determination act.

SPONSORS: Senators Wojahn, Niemi, Snyder, Rinehart and Moore

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Staff: Martin Lovinger (786-7443)

Hearing Dates: March 2, 1993

BACKGROUND:

Section 4206 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 sets forth a number of federal requirements for Medicare certified health facilities and providers regarding the maintenance of written policies and procedures respecting advance directives for all adults receiving care by or through the facility or provider.

The federal law requires that providers of services:

1. Provide written information to each individual concerning the rights of individuals under state law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate an advance directive, which is defined as a written instruction such as a living will or durable power of attorney for health care recognized under state law and relating to the provision of such care when the individual is incapacitated;
2. Document in the individual's medical record whether or not the individual has executed an advance directive;
3. Not condition the provision of care or otherwise discriminate based on whether or not the individual has executed an advance directive;
4. Ensure compliance at facilities of the provider with state law requirements respecting advance directives; and
5. Provide education for staff and the community concerning advance directives.

The federal law requires that the written information required above be provided to all adult individuals:

1. At the time of admission as an inpatient to a hospital;

2. At the time of admission as a resident to a skilled nursing facility;
3. In advance of coming under the care of a home health agency;
4. At the time of receipt of care from a hospice program; or
5. At the time of enrollment in a prepaid health care plan or organization.

It is felt by some that the federal requirements should be supplemented in certain respects and extended to cover all institutional health care providers in Washington.

SUMMARY:

This chapter applies to all institutional health care providers in Washington, which includes, but is not limited to hospitals, skilled nursing facilities, home health agencies, hospices, and prepaid health care organizations.

All institutional health care providers must have written policies and procedures for all adults receiving care that identify and explain the rights of adults to make decisions concerning their medical care, including the right to withdraw previously given consent for ongoing treatment. Policies must include the right to make advance directives that direct health care providers to withhold or withdraw life-sustaining treatment. Procedures must describe how policies are implemented.

Every competent adult inpatient or outpatient and the surrogate of each incompetent inpatient or outpatient must be given a printed summary of the policies and procedures of the provider and a printed description of rights regarding consent for medical treatment, including refusal of unwanted treatment and advance directives to be issued by the Attorney General within 60 days of enactment of this law and updated as appropriate. A provider may give an additional description if it wishes to do so. If requested, the provider must furnish a copy of its full policies and procedures.

Each patient or surrogate must also be offered a form of advance directives, including at least the form in the current Natural Death Act and a form of durable power of attorney for health care decisions.

The summary, printed description of rights, and advance directive forms shall be provided at the time of admission to an institutional health care provider facility, at the time of enrollment in a prepaid health care organization, or before receiving care from a home health provider, including home hospice.

If a patient chooses not to complete an advance directive, the provider must inform the patient of the provisions of the

informed consent law dealing with persons authorized to make decisions for patients who are not competent to do so.

Providers must document in each patient's medical record if the patient has an advance directive, who holds the patient's durable power of attorney or who is the surrogate decisionmaker under the informed consent law.

Providers must conduct appropriate education for their staff concerning consent for medical treatment, advance directives and durable power of attorney.

Appropriation: none

Revenue: none

Fiscal Note: available