

## 1999 SESSION

ENROLLED

### HOUSE JOINT RESOLUTION NO. 603

*Directing the Joint Commission on Health Care to study the use of advance directives in the Commonwealth.*

Agreed to by the House of Delegates, February 9, 1999

Agreed to by the Senate, February 18, 1999

WHEREAS, Americans' right of self determination includes the ability to make fundamental decisions regarding the quality of one's life; and

WHEREAS, this right has been reaffirmed in the Code of Ethics of the American College of Health Care Administrators; and

WHEREAS, when an individual becomes physically or mentally unable to make decisions regarding his or her medical treatment, that person's power of self-determination can be preserved through advance medical directives; and

WHEREAS, a living will and designation of another as having power of attorney help ensure that the wishes of the individual are known and carried out; and

WHEREAS, the federal Patient Self-Determination Act (PSDA), passed in 1989, requires that hospitals, nursing facilities, hospices, home health agencies, and health maintenance organizations that participate in Medicare and Medicaid provide all patients with written information about their rights under state law to accept or refuse medical or surgical treatment and to formulate advance directives; and

WHEREAS, interest in advance directives, or living wills, and advances in medical technology led to rapid enactment of state laws recognizing the patient's right to control treatment processes; and

WHEREAS, the number of states enacting such laws has grown from fourteen in 1983 to thirty-six in 1985, and forty-seven in 1996; and

WHEREAS, the legal planning tool most often used for health care decisions in Virginia is the advance medical directive or health care power of attorney which allows individuals to set guidelines for health care decisions and to appoint someone to act as their agent; and

WHEREAS, these tools can reduce the chances of conflict among family, friends, and health care providers during a time of medical need; and

WHEREAS, the use and enforcement of advance directives has varied among different demographic groups due to a number of factors, including: lack of knowledge of the existence of advance directives and lack of appreciation of the need for an advance directive; vagueness in the directive which would make it difficult to enforce; lack of knowledge by treatment professionals regarding the existence of a directive; lack of portability between health care professionals and locations including interstate reciprocity; debate over the ethical questions regarding the selective use of advance directives; and concern by health care professionals over honoring such directives; and

WHEREAS, increased attention has focused on a living will format which would include not only the medical wishes but also the personal, emotional, and spiritual wishes of seriously ill persons; and

WHEREAS, a document embodying this format, reviewed by the American Bar Association's Commission on Legal Problems of the Elderly, has been deemed legal in 33 states, including Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Commission on Health Care be directed to study the use of advance directives in the Commonwealth. The study should include, but not be limited to: the percentage and categories of persons who utilized advance directives and methods to increase that number; the legal or ethical obstacles which inhibit the enforcement of the provisions of an advance directive; methods which would better inform health care practitioners about the existence of advance directives; and methods to insure portability and reciprocity for advance directives among health care providers and institutions as well as other states.

All agencies of the Commonwealth shall provide assistance to the Joint Commission, upon request.

The Joint Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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