

2016 SESSION

16102155D

HOUSE JOINT RESOLUTION NO. 61

Offered January 13, 2016

Prefiled January 2, 2016

Directing the Joint Commission on Health Care to study current legal and regulatory requirements regarding the medical appropriateness of life-prolonging care and options to clarify due diligence and the appropriate course of action when no physician can be found to carry out a patient's requests. Report.

 Patron-- Stolle

 Referred to Committee on Rules

WHEREAS, patients, legally authorized decision makers, and health care providers all desire the best care for the patient; and

WHEREAS, patients who are extremely ill, legally authorized decision makers, and health care providers often agree on the appropriate course of treatment but sometimes disagree over the appropriateness of life-prolonging medical interventions; and

WHEREAS, advance health care directives often adequately convey patient wishes when patients are unable to convey those wishes themselves, but not every patient has an advance health care directive and sometimes completed advance health care directives fail to address all care situations; and

WHEREAS, § **54.1-2990** of the Code of Virginia provides that if the physician's determination regarding appropriate medical intervention is contrary to the request of the patient or a legally authorized decision maker or advance health care directive and there is disagreement between the physician and the patient or legally authorized decision maker, the physician shall make a reasonable effort to transfer the patient to another physician who is willing to comply with the request of the patient and will give the patient and legally authorized decision maker not less than 14 days to effect such transfer; and

WHEREAS, often when one physician's determination regarding appropriate medical intervention is contrary to the request of the patient no other physician can be found who is willing to comply with the patient request and accept the proposed transfer; and

WHEREAS, § **54.1-2990** of the Code of Virginia provides no process for determining appropriate actions when patients or legally authorized decision makers and providers disagree over the appropriateness of life-prolonging care and the minimum 14-day time period to effect a patient transfer has expired and a transfer is unable to be effected; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Commission on Health Care be directed to study current legal and regulatory requirements regarding the medical appropriateness of life-prolonging care and options to clarify due diligence and the appropriate course of action when no physician can be found to carry out a patient's requests.

In conducting its study, the Joint Commission on Health Care shall work cooperatively with the Department of Health, patient advocacy organizations, health care provider organizations, and other stakeholders to (i) analyze Virginia's current legal and regulatory requirements regarding disagreements over the medical appropriateness of care, including the potential legal liability issues for patients, legally authorized decision makers, and providers; (ii) report on how other states address this issue and ensure patients and their representatives have adequate due diligence in pursuing desired courses of treatment and how providers are protected from being forced to provide care they deem to be medically inappropriate; and (iii) develop recommendations for legislative changes in Virginia that clarify appropriate actions in situations where the minimum 14-day time period to effect a patient transfer pursuant to § **54.1-2990** of the Code of Virginia has expired and a transfer is unable to be effected.

All agencies of the Commonwealth shall provide assistance to the Joint Commission on Health Care for this study, upon request.

The Joint Commission on Health Care shall complete its meetings by November 30, 2016, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2017 Regular Session of the General Assembly. The executive summary shall state whether the Joint Commission on Health Care intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.