Palliative Care Information Act Signed into Law

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On August 13, 2010, Governor Patterson signed into law the Palliative Care Information Act, which takes effect on February 12, 2011. This new law requires health care practitioners (i.e., physicians and nurse practitioners) to offer to their terminally ill patients information and counseling regarding palliative care; hospice; and appropriate end-of-life options, including but not limited to: the range of options appropriate to the patient; the prognosis, risks and benefits of the various options; and the patient's legal rights to comprehensive pain and symptom management at the end of life. Where a patient lacks decision-making capacity, the health care practitioner must provide this information to a person with authority to make health care decisions for the patient, such as a health care proxy, guardian or surrogate. The information can be provided orally or in writing. Violators can be fined up to $2,000 for each violation and "willful" violators can be found guilty of a misdemeanor, punishable by a fine, or imprisonment not to exceed 6 months, or both.

The Medical Society of the State of New York (MSSNY) opposed the bill, stating that it would increase exposure to criminal and civil liability and that it may undermine the physician-patient relationship. However, the bill only requires the physician to offer to provide the information. The patient is free to decline or accept the offer. Moreover, the obligation to provide this information can be satisfied personally by the health care practitioner or by arrangement with another professionally qualified individual. If the attending health care practitioner is not willing to provide the information, he or she must refer, or transfer, the patient to another physician or nurse practitioner who is willing to provide the information.

MSSNY also opposed the bill because of its belief that it could impact the physician-patient relationship by undermining patients' beliefs that the physician will treat his or her disease aggressively.

Supporters pointed out, however, that palliative care is not an all-or-nothing proposition. Rather, it is a supplement to disease-focused or curative treatment. With its emphasis on communication, pain and symptom management, and coordination of care, palliative care is focused on improving overall quality of life for patients and families facing serious illness. Patients may still choose aggressive treatment options if they wish, but at least they will now have the opportunity to discuss their wishes. The New England Journal of Medicine reported that patients who received palliative care Ahad a better quality of life, experienced less depression, were less likely to receive aggressive end-of-life care and lived nearly three months longer than those who received cancer treatment alone.

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If you have any questions pertaining to the Palliative Care Information Act or issues relating to health care decision-making and advance directives, please contact Barbara Phair, Esq at (516) 328-2300, extension 108, or your attorney contact in our firm.