

Study L-4000

May 3, 1996

First Supplement to Memorandum 96-34**Health Care Decisions: Preliminary Considerations (CMA Letter)**

The staff's estimate of the interest of the California Medical Association in revising the durable power of attorney statute, as stated in Memorandum 96-34, appears to have been in error. See the letter from Alice P. Mead, CMA Legal Counsel, attached hereto.

In summary, CMA has sponsored legislation to deal with some of the technical issues they saw in the DPAHC and they do not want to have to go through the process of revising patient information pamphlets that might be necessary if changes are made. The staff understands this sentiment — we have experienced the same problem in regard to the statutory forms in the DPAHC. While this argues against making minor changes without sufficient justification, important improvements in the law should not be held hostage by information pamphlets. In any event, there may be other issues arising, unrelated to this bureaucratic concern, that CMA will be interested in.

Respectfully submitted,

Stan Ulrich
Assistant Executive Secretary



EXHIBIT
Study L-4000

California Medical Association

221 Main Street, P.O. Box 7690, San Francisco, CA 94120-7690 (415) 541-0900
Physicians dedicated to the health of Californians

May 2, 1996

Law Revision Commission
RECEIVED

MAY 03 1996

File: L-4000

Stan Ulrich, Esq.
California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, California 94303-4739

Re: Possible Revision of the DPAHC Statutory Scheme

Dear Stan:

Thank you very much for advising me that the Law Revision Commission may be considering the possibility of revising the DPAHC statutory scheme. As you recall, about a year and a half ago you and I discussed several problems that CMA believed might be hindering the effective use of DPAHCs. Since that time, CMA successfully sponsored a bill—SB 1148—which resolved two of these issues (1) allowing co-employees of the same health care facility where those individuals receive health care services to serve as co-agents for one another and 2) clarifying that residents in a long term facility may use the notarization option so long as they have the required signature from an ombudsman). We do not believe that any additional significant changes are needed at this time; indeed, further statutory revision may cause unnecessary confusion among health care providers and consumers who have become accustomed to the existing statutory scheme.

In addition, a significant change in the law might require a modification of the informational patient pamphlet which the Patient Self Determination Act requires hospitals and other covered entities to distribute to patients. Such a modification might be difficult to accomplish, since the consortium of health care organizations that originally developed the current patient pamphlet is no longer actively meeting, and it is questionable whether it could be revived. Hospitals and other covered entities can only distribute the patient pamphlet that is approved by DHS and, at present, the one developed by the consortium is the only pamphlet that has DHS approval. Therefore, if significant changes in the law occur, there may be no mechanism by which the pamphlet can be revised and redistributed. Of course, individual hospitals and other covered entities could seek DHS permission to produce facility/entity-specific pamphlets, but that is currently not an option.


In short, while some improvements are no doubt possible, we believe that the law is working satisfactorily as it currently exists. Accordingly, we believe the Commission's energies might better be spent in some other area.

Stan Ulrich, Esq.
May 2, 1996
page 2

Again, thank you so much for informing CMA about the impending Commission meeting. If the Commission does decide to go forward with revising the DPAHC statutory scheme, CMA would certainly like to be involved and to comment on any proposed revisions.

I look forward to hearing about the Commission's decision.

Sincerely,



Alice P. Mead
CMA Legal Counsel

APM:sm

cc: Roger Purdy
Joan Hall
Jack Lewin, M.D.

D:\LET\APMSU043096.DPA