

First Supplement to Memorandum 85-66

Subject: Study L-502 - Dying and Termination of Life Sustaining
Procedures

The Commission should be aware that Assembly Bill No. 2273 (Hayden) has been introduced to create a special commission to undertake study of the ethical, legal, and economic implications of health issues. A copy of the bill is enclosed.

The staff prefers a Governor's Commission with a more limited directive as suggested by the State Bar Section in the letter attached to Memorandum 85-66.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

ASSEMBLY BILL

No. 2273

Introduced by Assembly Member Hayden

March 8, 1985

An act relating to health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2273, as introduced, Hayden. Health: studies of ethical, legal, and economic implications.

Existing law does not provide for any commission to undertake study of the ethical, legal, and economic implications of health issues.

This bill would create and prescribe the membership of a Commission on Life, Medical Technology, and the Law to undertake studies of the ethical, legal, and economic implications of prescribed health issues and any other health-related matters which the commission determines are appropriate for study by the commission.

The commission would be required to submit an interim report to the Legislature not later than 6 months after its first meeting.

All state departments, agencies, boards, and offices would be required to cooperate with the commission and to provide any assistance which the commission may require. Allocations of staff to the commission would be subject to approval by the Department of Finance. Members of the commission or any of its subcommittees would not receive any compensation for their services but would be entitled to reimbursement for any necessary expenses in connection with the performance of their duties.

The provisions enacted by the bill would be repealed January 1, 1987, in the absence of further legislation.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that:

2 (a) Major advances in medical science and technology
3 have not been accompanied by a sufficiently thorough
4 evaluation of their ethical, legal, and public policy
5 implications.

6 (b) These advances have been largely funded by the
7 public taxpayers through support of university medical
8 research institutions and the provision of research funds.

9 (c) Society has, with increasing frequency, been
10 confronted by complex issues of life and death that elude
11 simple answers.

12 (d) The challenges posed by these issues require
13 thoughtful debate and consideration, aimed at elevating
14 public understanding of these issues and at developing
15 recommendations as to the appropriate policies to
16 pursue.

17 (e) A determination should be made as to who are the
18 primary beneficiaries of this outlay of public funding,
19 including the specification of the target population which
20 is expected to benefit from publicly funded medical
21 research.

22 (f) Limited resources exist for the public funding of
23 health care, and consequently, priorities and guidelines
24 must be established for the access to, and distribution of,
25 these resources.

26 SEC. 2. The Commission on Life, Medical
27 Technology, and the Law is hereby created to undertake
28 studies of the ethical, legal, and economic implications of
29 all of the following:

30 (a) Policies concerning the care and treatment of the
31 terminally ill.

32 (b) The definition of death.

33 (c) The process by which decisions are made
34 concerning the discontinuance of life-sustaining
35 therapies and the issuance of "do not resuscitate" orders.

36 (d) Issues surrounding artificial insemination and

1 embryo transplantation.

2 (e) Policies governing organ transplantation.

3 (f) The process by which medical care decisions are
4 made in cases involving individuals without
5 decisionmaking capacity, although in no instance should
6 these studies include the issues concerning the unborn.

7 (g) Any other health-related matters which the
8 commission determines are appropriate for study by the
9 commission.

10 SEC. 3. The commission studies shall include a review
11 of current state and federal law and practice pertaining
12 to the issues described in Section 2; an analysis of the
13 proper roles of patients, family members, health care
14 professionals, and the courts in making health-care
15 decisions; an inquiry into the advisability and
16 appropriateness of adopting legislative or administrative
17 policies affecting these issues; and recommendations to
18 enhance public consideration of those issues not
19 susceptible to immediate legal or administrative
20 resolution.

21 SEC. 4. The commission shall submit an interim
22 report to the Legislature no later than six months after
23 the first meeting of the commission.

24 SEC. 5. All departments, agencies, divisions, boards,
25 and offices of the state shall cooperate with the
26 commission and provide any assistance which the
27 commission may require to fulfill its purposes. The
28 purposes may include, but are not limited to, the use of
29 agency staff, the provision of statistical and policy data in
30 any form which is determined by the commission and any
31 consultation with agency staff which the commission may
32 require. Allocation of staff shall be subject to approval by
33 the Department of Finance.

34 The commission shall consist of an initial membership
35 of 15 members appointed as follows:

36 (a) Five members appointed by the Governor.

37 (b) Five members appointed by the Speaker of the
38 Assembly.

39 (c) Five members appointed by the Senate Rules
40 Committee.

1 The chair and vice-chair of the commission shall be
2 selected by the membership of the commission at its first
3 meeting. The members of the commission shall include
4 persons of various theological affiliations, representatives
5 of the legal, medical, and academic communities and
6 others with a demonstrated interest or expertise, or both,
7 in these issues. The commission may establish any
8 subcommittees which may be necessary to enhance its
9 study of the issues under its review. The subcommittees
10 shall be chaired by members of the commission but the
11 subcommittees may include persons with relevant
12 expertise and interest who are not members of the
13 commission.

14 SEC. 6. The members of the commission or of any of
15 its subcommittees shall not receive compensation for
16 their service, but shall be entitled to reimbursement for
17 any necessary expenses incurred in connection with the
18 performance of their duties.

19 SEC. 7. The time and place of the first meeting of the
20 commission shall be prescribed by the Governor, but, in
21 no event, shall it be scheduled for a date later than
22 February 1, 1986.

23 SEC. 8. This act shall remain in effect only until
24 January 1, 1987, and as of that date is repealed, unless a
25 later enacted statute, which is enacted before January 1,
26 1987, deletes or extends that date.

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