

# HOUSE BILL 1385

J1, C3

(6lr2926)

## ENROLLED BILL

— Health and Government Operations/Finance —

Introduced by ~~Delegate Morhaim~~ Delegates Morhaim, Hammen, Angel, Barron, Bromwell, Cullison, Hayes, Hill, Kelly, Kipke, Krebs, McDonough, McMillan, Miele, Morgan, Oaks, Pena-Melnyk, Pendergrass, Rose, Saab, Sample-Hughes, West, and K. Young

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – ~~Electronic Advance Directives – Witness Requirements,~~**  
3 **~~Information Sheet, and Repository Services Procedures, Information Sheet, and~~**  
4 **Use of Electronic Advance Directives**

5 FOR the purpose of providing that ~~certain provisions of law apply to managed care~~  
6 ~~organizations in a certain manner; requiring each managed care organization to offer~~  
7 ~~electronic advance directives to its enrollees at a certain time; authorizing managed~~  
8 ~~care organizations to contract with an electronic advance directives service under~~  
9 ~~certain circumstances; repealing a provision of law providing that an electronic~~  
10 ~~advance directive created in a certain manner satisfies certain requirements;~~  
11 ~~prohibiting a certain witness from being required to be physically present at the time~~  
12 ~~a declarant signs or acknowledges the declarant's signature on an electronic advance~~

---

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



~~directive; requiring managed care organizations and the Maryland Health Benefit Exchange to provide a certain information sheet in accordance with certain provisions of law; requiring a certain information sheet to encourage the use of electronic advance directives and provide certain information; prohibiting a certain information sheet from imposing certain requirements; requiring the Department of Health and Mental Hygiene, for a certain purpose, to contract with an electronic advance directives service to connect with health care providers in a certain manner; establishing certain requirements for an electronic advance directives service; requiring the Department to encourage certain persons and entities to engage in certain outreach efforts for a certain purpose; requiring the Department to encourage the use of electronic advance directives; requiring the State designated health information exchange to make an electronic advance directive available to a certain health care provider under certain circumstances; requiring health insurance carriers to offer electronic advance directives to their members and enrollees at a certain time; authorizing carriers to contract with an electronic advance directives service under certain circumstances; requiring the Exchange to provide a certain information sheet in a certain manner; requiring the Secretary of Budget and Management to offer electronic advance directives to certain employees at a certain time~~ a certain expression of an individual's wishes regarding health care shall be considered under certain circumstances, notwithstanding any other provision of law; repealing a provision of law establishing that a certain electronic advance directive satisfies a certain requirement; establishing that a witness is not required for an electronic advance directive under certain circumstances; authorizing the State-designated health information exchange to accept as valid a certain electronic advance directive in a certain form under certain circumstances; requiring the Maryland Health Benefit Exchange to provide a certain information sheet in accordance with certain provisions of this Act; altering the contents of a certain information sheet; requiring the Department of Health and Mental Hygiene to take certain actions regarding electronic advance directives; *repealing the Advance Directive Registry in the Department; establishing an Advance Directive Program in the Department; repealing certain powers and duties of the Secretary of Health and Mental Hygiene and the Department relating to the Registry; authorizing the Secretary to adopt certain regulations for the Program; authorizing an individual to register an advance directive with a certain advance directives service; requiring a registrant to provide certain notice to a certain advance directives service under certain circumstances; requiring a health care provider to provide a registrant with certain information under certain circumstances; providing that an individual is not required to submit an advance directive to a certain advance directives service; requiring the Department to take certain actions before accepting an advance directive into a certain advance directives service; establishing certain immunity for a health care provider for failing to access a certain advance directives service or relying on information provided by a certain advance directives service; altering a certain definition; repealing a certain definition; requiring the Department, for a certain purpose, to contract with an electronic advance directives service to connect with health care providers in a certain manner; requiring certain money in the Spinal Cord Injury Research Trust Fund to be used to administer the Advance Directive Registry Program in the Department; altering the date on or before which the*

1 Department must implement a certain plan; requiring the Department to offer to  
 2 certain recipients a certain information sheet in a certain manner and the use of  
 3 electronic advance directives through a certain service; requiring the Maryland  
 4 Health Care Commission to develop certain criteria for a certain purpose;  
 5 establishing certain requirements that an electronic advance directives service must  
 6 meet to connect to the State-designated health information exchange; authorizing  
 7 the State-designated health information exchange to charge a certain fee under  
 8 certain circumstances; requiring the State-designated health information exchange  
 9 to ensure that electronic advance directives services do not have access to certain  
 10 information; altering a certain definition; making conforming changes; and generally  
 11 relating to electronic advance directives.

12 ~~BY repealing and reenacting, without amendments,~~  
 13 ~~Article – Health – General~~  
 14 ~~Section 5-602(a), 5-620, and 15-109.1~~  
 15 ~~Annotated Code of Maryland~~  
 16 ~~(2015 Replacement Volume)~~

17 BY repealing and reenacting, with amendments,  
 18 Article – Health – General  
 19 ~~Section 5-602(e), 5-615, 5-622, and 5-623~~ 5-602(a) and (c), 5-615, 5-622, 13-1406,  
 20 and 15-109.1 Section 5-602(a) and (c), 5-615; 5-619 through 5-623, 5-625,  
 21 and 5-626 to be under the amended part “Part II. Advance Directive Program”;  
 22 13-406, and 15-109.1  
 23 Annotated Code of Maryland  
 24 (2015 Replacement Volume)

25 ~~BY repealing and reenacting, without amendments,~~  
 26 ~~Article – Health – General~~  
 27 ~~Section 5-620~~  
 28 ~~Annotated Code of Maryland~~  
 29 ~~(2015 Replacement Volume)~~

30 BY adding to  
 31 Article – Health – General  
 32 Section ~~15-102.9~~ 5-615.1 and 19-144  
 33 Annotated Code of Maryland  
 34 (2015 Replacement Volume)

35 BY repealing  
 36 Article – Health – General  
 37 Section 5-624  
 38 Annotated Code of Maryland  
 39 (2015 Replacement Volume)

40 BY repealing and reenacting, ~~with~~ without amendments,  
 41 Article – Insurance

1 Section ~~15-122.1~~ 6-103.1  
 2 Annotated Code of Maryland  
 3 (2011 Replacement Volume and 2015 Supplement)

4 BY adding to  
 5 Article – Insurance  
 6 Section 31-108(g)  
 7 Annotated Code of Maryland  
 8 (2011 Replacement Volume and 2015 Supplement)

9 ~~BY adding to~~  
 10 ~~Article – State Personnel and Pensions~~  
 11 ~~Section 2-503(e)~~  
 12 ~~Annotated Code of Maryland~~  
 13 ~~(2015 Replacement Volume)~~

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 15 That the Laws of Maryland read as follows:

16 **Article – Health – General**

17 5-602.

18 (a) **(1)** Any competent individual may, at any time, make a written or  
 19 electronic advance directive regarding the provision of health care to that individual, or the  
 20 withholding or withdrawal of health care from that individual.

21 **(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN THE**  
 22 **ABSENCE OF A VALIDLY EXECUTED OR WITNESSED ADVANCE DIRECTIVE, ANY**  
 23 **AUTHENTIC EXPRESSION MADE BY AN INDIVIDUAL WHILE COMPETENT OF THE**  
 24 **INDIVIDUAL’S WISHES REGARDING HEALTH CARE FOR THE INDIVIDUAL SHALL BE**  
 25 **CONSIDERED.**

26 (c) (1) A written or electronic advance directive shall be dated, signed by or at  
 27 the express direction of the declarant, and subscribed by two witnesses.

28 (2) (i) Except as provided in subparagraphs (ii) and (iii) of this  
 29 paragraph, any competent individual may serve as a witness to an advance directive,  
 30 including an employee of a health care facility, nurse practitioner, physician assistant, or  
 31 physician caring for the declarant if acting in good faith.

32 (ii) The health care agent of the declarant may not serve as a  
 33 witness.

1 (iii) At least one of the witnesses must be an individual who is not  
2 knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any  
3 financial benefit by reason of the death of the declarant.

4 (3) [An electronic advance directive that is created in compliance with the  
5 electronic witness protocols of the Advance Directive Registry of the Department shall  
6 satisfy the witness requirement of paragraph (1) of this subsection] ~~A WITNESS WHO USES  
7 AN ELECTRONIC SIGNATURE AT THE DIRECTION OF THE DECLARANT TO WITNESS AN  
8 ELECTRONIC ADVANCE DIRECTIVE MAY NOT BE REQUIRED TO BE PHYSICALLY  
9 PRESENT AT THE TIME THE DECLARANT SIGNS OR ACKNOWLEDGES THE  
10 DECLARANT'S SIGNATURE ON THE ELECTRONIC ADVANCE DIRECTIVE IS NOT  
11 REQUIRED FOR AN ELECTRONIC ADVANCE DIRECTIVE IF THE DECLARANT'S  
12 IDENTITY HAS BEEN ESTABLISHED USING REMOTE IDENTITY PROOFING AND  
13 MULTIFACTOR AUTHENTICATION SERVICES;~~

14 ~~(i) ESTABLISHED IN ACCORDANCE WITH THE NATIONAL  
15 INSTITUTE OF STANDARDS AND TECHNOLOGY SPECIAL PUBLICATION 800-63-2:  
16 ELECTRONIC AUTHENTICATION GUIDELINE; AND~~

17 ~~(ii) APPROVED BY THE MARYLAND HEALTH CARE  
18 COMMISSION.~~

19 (4) THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE MAY  
20 ACCEPT AS VALID AN UNWITNESSED ELECTRONIC ADVANCE DIRECTIVE IN THE  
21 FORM OF A VIDEO RECORD OR FILE TO STATE THE DECLARANT'S WISHES  
22 REGARDING HEALTH CARE FOR THE DECLARANT OR TO APPOINT AN AGENT IF THE  
23 VIDEO RECORD OR FILE:

24 (i) IS DATED; AND

25 (ii) IS STORED IN AN ELECTRONIC FILE BY AN ELECTRONIC  
26 ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE  
27 COMMISSION.

28 5-615.

29 (a) In this section, "health care facility" has the meaning stated in § 19-114 of  
30 this article.

31 (b) Each health care facility shall provide each individual on admittance to the  
32 facility information concerning the rights of the individual to make decisions concerning  
33 health care, including the right to accept or refuse treatment, and the right to make an  
34 advance directive, including a living will.

1 (c) (1) The Department, in consultation with the Office of the Attorney  
2 General, shall develop an information sheet that provides information relating to advance  
3 directives, which shall include:

4 (i) Written statements informing an individual that an advance  
5 directive:

6 1. Is a useful, legal, and well established way for an  
7 individual to direct medical care;

8 2. Allows an individual to specify the medical care that the  
9 individual will receive and can alleviate conflict among family members and health care  
10 providers;

11 3. Can ensure that an individual's religious beliefs are  
12 considered when directing medical care;

13 4. Is most effective if completed in consultation with family  
14 members, or legal and religious advisors, if an individual desires;

15 5. Can be revoked or changed at any time;

16 6. Is available in many forms, including model forms  
17 developed by religious organizations, estate planners, and lawyers;

18 7. Does not have to be on any specific form and can be  
19 personalized; and

20 8. If completed, should be copied for an individual's family  
21 members, physicians, and legal advisors; and

22 (ii) The following written statements:

23 1. That an individual should discuss the appointment of a  
24 health care agent with the potential appointee;

25 2. That advance directives are for individuals of all ages;

26 3. That in the absence of an appointed health care agent, the  
27 next of kin make an individual's health care decisions when the individual is incapable of  
28 making those decisions; and

29 4. That an individual is not required to complete an advance  
30 directive.

31 (2) The information sheet developed by the Department under this  
32 subsection shall be provided by:

- 1 (i) The Department, in accordance with § 15–109.1 of this article;
- 2 (ii) The Motor Vehicle Administration, in accordance with §  
3 12–303.1 of the Transportation Article; [and]
- 4 (iii) A carrier, in accordance with § 15–122.1 of the Insurance Article;
- 5 AND

6 ~~(iv) A MANAGED CARE ORGANIZATION, IN ACCORDANCE WITH §~~  
7 ~~15–102.9 OF THIS ARTICLE; AND~~

8 ~~(v) (iv) THE MARYLAND HEALTH BENEFIT EXCHANGE, IN~~  
9 ~~ACCORDANCE WITH § 31–108(G) OF THE INSURANCE ARTICLE.~~

10 (3) The information sheet developed by the Department under this  
11 subsection may not contain or promote a specific advance directive form OR AN  
12 ELECTRONIC ADVANCE DIRECTIVE TECHNOLOGY OR SERVICE.

13 (4) THE INFORMATION SHEET DEVELOPED BY THE DEPARTMENT  
14 UNDER THIS SUBSECTION AT A MINIMUM SHALL:

15 ~~(i) SHALL ENCOURAGE THE USE OF ELECTRONIC ADVANCE~~  
16 ~~DIRECTIVES AND PROVIDE INFORMATION ABOUT SUBMITTING ELECTRONIC~~  
17 ~~ADVANCE DIRECTIVES TO THE ADVANCE DIRECTIVE REGISTRY IN THE~~  
18 ~~DEPARTMENT, INCLUDING ANY FEES REQUIRED TO USE THE SERVICES OF THE~~  
19 ~~REGISTRY; BUT~~

20 ~~(ii) MAY NOT REQUIRE THE USE OF AN ELECTRONIC ADVANCE~~  
21 ~~DIRECTIVE, A SPECIFIC ELECTRONIC ADVANCE DIRECTIVE FORM, THE ADVANCE~~  
22 ~~DIRECTIVE REGISTRY, OR A SPECIFIC ADVANCE DIRECTIVE SERVICE.~~

23 (i) EDUCATE THE PUBLIC ON THE USE OF ELECTRONIC  
24 ADVANCE DIRECTIVES;

25 (ii) ENCOURAGE THE USE OF ELECTRONIC ADVANCE  
26 DIRECTIVES;

27 (iii) PROVIDE INFORMATION ABOUT DEVELOPING AN  
28 ELECTRONIC ADVANCE DIRECTIVE;

29 (iv) DESCRIBE HOW ELECTRONIC ADVANCE DIRECTIVES ARE  
30 MADE AVAILABLE AT THE POINT OF CARE;

1                    (V) INDICATE THAT THE USE OF AN ELECTRONIC ADVANCE  
2 DIRECTIVE IS NOT REQUIRED; AND

3                    (VI) INDICATE THAT INDIVIDUALS DO NOT HAVE TO PAY TO  
4 HAVE THEIR ELECTRONIC ADVANCE DIRECTIVES HONORED.

5 5-615.1.

6                    THE DEPARTMENT SHALL:

7                    (1) ENCOURAGE THE USE OF ELECTRONIC ADVANCE DIRECTIVES;

8                    (2) CARRY OUT APPROPRIATE EDUCATIONAL AND OUTREACH  
9 EFFORTS TO INCREASE PUBLIC AWARENESS OF ELECTRONIC ADVANCE DIRECTIVES;  
10 AND

11                    (3) ENCOURAGE THE FOLLOWING PERSONS AND ENTITIES TO  
12 ENGAGE IN OUTREACH EFFORTS REGARDING ELECTRONIC ADVANCE DIRECTIVES:

13                    (I) THE MARYLAND DEPARTMENT OF AGING;

14                    (II) COUNTY OMBUDSPERSONS;

15                    (III) LOCAL HEALTH DEPARTMENTS;

16                    (IV) SENIOR LIVING FACILITIES;

17                    (V) ACADEMIC INSTITUTIONS;

18                    (VI) RELIGIOUS ORGANIZATIONS;

19                    (VII) HOSPITALS; AND

20                    (VIII) OTHER SIMILAR PERSONS OR ENTITIES.

21                    Part II. Advance Directive [Registry] PROGRAM.

22 5-619.

23                    (a) In this Part II of this subtitle the following words have the meanings indicated.

24                    (b) "Advance directive" has the meaning stated in § 5-601 of this subtitle.

1           (c)     *“Registrant” means an individual who registers an advance directive with [the*  
 2 *Department] **AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE***  
 3 ***MARYLAND HEALTH CARE COMMISSION.***

4           *[(d)   “Registry” means the repository for advance directives in the Department.]*

5 5-620.

6           There is an Advance Directive ~~Registry~~ **PROGRAM** in the Department.

7 ~~5-621.~~

8           *The Secretary may adopt regulations to ensure the efficient operation of the [Registry]*  
 9 ***PROGRAM.***

10 5-622.

11           ~~(a)   (1)   The Secretary shall, by regulation, set a fee for any service of the~~  
 12 ~~Registry, including an initial fee to utilize the services of the Registry and renewal fees.~~

13           ~~(2)   The fees set by the Secretary may not, in the aggregate, exceed the~~  
 14 ~~Department’s costs to establish and operate the Registry.~~

15           ~~(b)   (1)   The Department may, by contract, obtain from any person services~~  
 16 ~~related to the establishment and operation of the Registry.~~

17           ~~(2)   Notwithstanding any contract in accordance with paragraph (1) of this~~  
 18 ~~subsection, the Department is responsible for the Registry.~~

19           ~~(c) (A)~~   **(1)   TO FACILITATE THE USE OF CLOUD-BASED TECHNOLOGY**  
 20 **FOR ELECTRONIC ADVANCE DIRECTIVES, THE DEPARTMENT SHALL CONTRACT**  
 21 **WITH AN ELECTRONIC ADVANCE DIRECTIVES SERVICE TO CONNECT WITH HEALTH**  
 22 **CARE PROVIDERS AT THE POINT OF CARE THROUGH THE STATE-DESIGNATED**  
 23 **HEALTH INFORMATION EXCHANGE.**

24           **(2)   THE ELECTRONIC ADVANCE DIRECTIVES SERVICE SHALL:**

25                   **(I)   BE APPROVED BY THE MARYLAND HEALTH CARE**  
 26 **COMMISSION AND THE DEPARTMENT; AND**

27                   **(II)   MEET THE TECHNOLOGY, SECURITY, AND PRIVACY**  
 28 **STANDARDS SET BY THE MARYLAND HEALTH CARE COMMISSION.**

1            ~~[(c)] ~~(D)~~ (B) ~~(1)~~~~ The Department shall carry out appropriate educational and  
 2 outreach efforts to increase public awareness of ~~the Registry~~ AN ELECTRONIC ADVANCE  
 3 DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.

4            ~~(2) TO INCREASE PUBLIC AWARENESS OF ELECTRONIC ADVANCE~~  
 5 ~~DIRECTIVES, THE DEPARTMENT SHALL ENCOURAGE THE FOLLOWING PERSONS AND~~  
 6 ~~ENTITIES TO ENGAGE IN OUTREACH EFFORTS ABOUT ELECTRONIC ADVANCE~~  
 7 ~~DIRECTIVES;~~

8                    ~~(I) THE MARYLAND DEPARTMENT OF AGING;~~

9                    ~~(II) COUNTY OMBUDSPERSONS;~~

10                   ~~(III) LOCAL HEALTH DEPARTMENTS;~~

11                   ~~(IV) SENIOR LIVING FACILITIES;~~

12                   ~~(V) ACADEMIC INSTITUTIONS;~~

13                   ~~(VI) RELIGIOUS ORGANIZATIONS; AND~~

14                   ~~(VII) ANY SIMILAR PERSON OR ENTITY.~~

15    ~~5-623.~~

16            ~~(a) (1) An individual may register with the Department an advance directive.~~

17            ~~(2) THE DEPARTMENT SHALL ENCOURAGE THE USE OF ELECTRONIC~~  
 18 ~~ADVANCE DIRECTIVES.~~

19            ~~(b) (1) The registrant shall notify the Registry if the registrant has amended~~  
 20 ~~or revoked a registered advance directive.~~

21            ~~(2) A health care provider that becomes aware that a registrant has~~  
 22 ~~amended or revoked a registered advance directive shall, at the request of the registrant,~~  
 23 ~~provide the registrant with information on how to notify the Registry.~~

24            ~~(c) An individual is not required to submit an advance directive to the Registry.~~

25            ~~(d) Nothing in this Part II of this subtitle affects the validity of an advance~~  
 26 ~~directive that is not submitted to the Registry.~~

27            ~~(E) IF AN INDIVIDUAL HAS SUBMITTED AN ELECTRONIC ADVANCE~~  
 28 ~~DIRECTIVE TO THE REGISTRY OR ANOTHER ADVANCE DIRECTIVES SERVICE, THE~~  
 29 ~~STATE DESIGNATED HEALTH INFORMATION EXCHANGE SHALL MAKE THE~~

~~ELECTRONIC ADVANCE DIRECTIVE AVAILABLE TO THE INDIVIDUAL'S HEALTH CARE PROVIDER ON REQUEST OF THE INDIVIDUAL.~~

~~15-102.9.~~

~~(A) THE PROVISIONS OF § 15-122.1 OF THE INSURANCE ARTICLE APPLY TO MANAGED CARE ORGANIZATIONS IN THE SAME MANNER THE PROVISIONS APPLY TO CARRIERS.~~

~~(B) EACH MANAGED CARE ORGANIZATION SHALL OFFER ELECTRONIC ADVANCE DIRECTIVES TO ITS ENROLLEES DURING OPEN ENROLLMENT.~~

~~(C) A MANAGED CARE ORGANIZATION MAY CONTRACT WITH ANY ELECTRONIC ADVANCE DIRECTIVES SERVICE IF THE SERVICE:~~

~~(1) IS APPROVED BY THE MARYLAND HEALTH CARE COMMISSION AND THE DEPARTMENT; AND~~

~~(2) MEETS THE TECHNOLOGY, SECURITY, AND PRIVACY STANDARDS SET BY THE MARYLAND HEALTH CARE COMMISSION.~~

~~5-623.~~

*(a) An individual may register AN ADVANCE DIRECTIVE with [the Department an advance directive] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.*

*(b) (1) The registrant shall notify the [Registry] ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION if the registrant has amended or revoked a registered advance directive.*

*(2) A health care provider that becomes aware that a registrant has amended or revoked a registered advance directive shall, at the request of the registrant, provide the registrant with information on how to notify the [Registry] ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.*

*(c) An individual is not required to submit an advance directive to [the Registry] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.*

*(d) Nothing in this Part II of this subtitle affects the validity of an advance directive that is not submitted to [the Registry] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.*

1 [5-624.

2 (a) The Registry shall consist of a secure, electronic database to which authorized  
3 access is available 24 hours per day, 7 days per week.

4 (b) The Secretary shall specify in regulations the persons who are authorized to  
5 access the Registry, including:

6 (1) The registrant or the registrant's designee; and

7 (2) Representatives of a health care facility in which a registrant is receiving  
8 health care.

9 (c) The Secretary shall adopt regulations regarding access to the Registry,  
10 including procedures to protect confidential information.

11 (d) The Department may perform evaluations of the Registry.]

12 [5-625.] 5-624.

13 Before accepting an advance directive into [the Registry] AN ELECTRONIC ADVANCE  
14 DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION,  
15 the Department shall review and verify that the advance directive includes:

16 (1) The signature of the declarant;

17 (2) The date on which the advance directive was signed by the declarant;  
18 and

19 (3) The signature of two witnesses as provided in § 5-602(c) of this subtitle.

20 [5-626.] 5-625.

21 A health care provider is not subject to criminal prosecution or civil liability or  
22 deemed to have engaged in unprofessional conduct as determined by the appropriate  
23 licensing authority for:

24 (1) Failure to access [the Registry] AN ELECTRONIC ADVANCE  
25 DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION;  
26 or

27 (2) Relying on information provided by [the Registry] AN ELECTRONIC  
28 ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE  
29 COMMISSION.

1 13-1406.

2 (a) There is a Spinal Cord Injury Research Trust Fund.

3 (b) The Fund shall consist of money transferred to the Fund under § 6-103.1 of  
4 the Insurance Article or received from any other lawful source.

5 (c) (1) Money in the Fund shall be used to [make]:

6 (I) MAKE grants for spinal cord injury research that is focused on  
7 basic, preclinical, and clinical research for developing new therapies to restore neurological  
8 function in individuals with spinal cord injuries; AND

9 (II) ADMINISTER THE ADVANCE DIRECTIVE ~~REGISTRY~~  
10 PROGRAM ESTABLISHED UNDER § 5-620 OF THIS ARTICLE.

11 (2) For the purpose specified in paragraph (1) of this subsection, a grant  
12 may include an award to or for:

13 (i) A public or private entity;

14 (ii) A university researcher;

15 (iii) A research institution;

16 (iv) Private industry;

17 (v) A clinical trial;

18 (vi) A supplement to an existing charitable or private industry grant;

19 (vii) A matching fund;

20 (viii) A fellowship in spinal cord injury research;

21 (ix) A research meeting concerning spinal cord injury research; or

22 (x) Any other recipient or purpose which the Board determines is  
23 consistent with the purpose specified in paragraph (1) of this subsection.

24 (d) (1) The Fund is a continuing, nonlapsing fund, not subject to § 7-302 of the  
25 State Finance and Procurement Article.

26 (2) (i) The Fund shall be used exclusively to offset the actual  
27 documented direct costs of fulfilling the statutory and regulatory duties of the Board under  
28 this subtitle.

1                   (ii) The Department shall pay the indirect costs the Board incurs in  
2 fulfilling the statutory and regulatory duties of the Board under this subtitle.

3                   (3) Any unspent portions of the Fund may not be transferred or revert to  
4 the General Fund of the State, but shall remain in the Fund to be used for the purpose  
5 specified in subsection (c) of this section.

6                   (e) The chairman of the Board or the designee of the chairman shall administer  
7 the Fund.

8                   (f) The Legislative Auditor shall audit the accounts and transactions of the Fund  
9 as provided in § 2-1220 of the State Government Article.

10 15-109.1.

11                   (a) The Department, in consultation with the Office of the Attorney General,  
12 shall:

13                   (1) Develop and implement a plan for making the advance directive  
14 information sheet developed under § 5-615 of this article widely available; and

15                   (2) Make the information sheet described in item (1) of this subsection  
16 available in a conspicuous location in each local health department, in each local  
17 department of social services, and in community health centers.

18                   (b) The Department shall implement the plan on or before ~~June 30, 2005~~  
19 **JANUARY 1, 2017.**

20                   (c) During the development of the plan under subsection (a) of this section and  
21 the information sheet under § 5-615 of this article, the Office of the Attorney General shall  
22 consult with any interested party including the State Advisory Council on Quality Care at  
23 the End of Life.

24                   **(D) THE DEPARTMENT SHALL OFFER:**

25                   **(1) THE INFORMATION SHEET DEVELOPED UNDER § 5-615 OF THIS**  
26 **ARTICLE AS PART OF THE MONTHLY ENROLLMENT PACKET MAILED TO A RECIPIENT**  
27 **BY THE ENROLLMENT BROKER; AND**

28                   **(2) THE USE OF ELECTRONIC ADVANCE DIRECTIVES TO A RECIPIENT**  
29 **THROUGH AN ADVANCE DIRECTIVES SERVICE THAT:**

30                   **(I) IS APPROVED BY THE MARYLAND HEALTH CARE**  
31 **COMMISSION AND THE DEPARTMENT; AND**

1                   (ii) MEETS THE TECHNOLOGY, SECURITY, AND PRIVACY  
2 STANDARDS ESTABLISHED BY THE MARYLAND HEALTH CARE COMMISSION.

3 19-144.

4           (A) TO FACILITATE THE USE OF WEB-BASED TECHNOLOGY FOR  
5 ELECTRONIC ADVANCE DIRECTIVES, THE MARYLAND HEALTH CARE COMMISSION  
6 SHALL DEVELOP CRITERIA FOR RECOGNIZING ELECTRONIC ADVANCE DIRECTIVES  
7 SERVICES THAT ARE AUTHORIZED TO CONNECT TO THE STATE-DESIGNATED  
8 HEALTH INFORMATION EXCHANGE.

9           (B) TO BE AUTHORIZED TO CONNECT TO THE STATE-DESIGNATED HEALTH  
10 INFORMATION EXCHANGE, AN ELECTRONIC ADVANCE DIRECTIVES SERVICE SHALL:

11                   (1) BE RECOGNIZED BY THE MARYLAND HEALTH CARE  
12 COMMISSION;

13                   ~~(2) MEET NATIONAL PRIVACY AND SECURITY STANDARDS AND~~  
14 ~~INDUSTRY BEST PRACTICES FOR SECURITY AUDITS IDENTIFIED BY THE MARYLAND~~  
15 ~~HEALTH CARE COMMISSION;~~

16                   ~~(3) USE REMOTE IDENTITY PROOFING AND MULTIFACTOR~~  
17 ~~AUTHENTICATION SERVICES;~~

18                   ~~(i) (2) ESTABLISHED BE ESTABLISHED IN ACCORDANCE~~  
19 ~~WITH THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY SPECIAL~~  
20 ~~PUBLICATION 800-63-2: ELECTRONIC AUTHENTICATION GUIDELINE; AND~~

21                   ~~(ii) APPROVED BY THE MARYLAND HEALTH CARE~~  
22 ~~COMMISSION;~~

23                   ~~(4) (3) BE RESPONSIBLE FOR ALL COSTS ASSOCIATED WITH~~  
24 ~~CONNECTING TO THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE; AND~~

25                   ~~(5) (4) STORE ELECTRONIC ADVANCE DIRECTIVES THAT ARE~~  
26 ~~RECEIVED BY FACSIMILE OR OTHER ELECTRONIC MEANS.~~

27           (C) THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE MAY  
28 CHARGE ELECTRONIC ADVANCE DIRECTIVES SERVICES RECOGNIZED BY THE  
29 MARYLAND HEALTH CARE COMMISSION A FEE FOR CONNECTING TO THE  
30 STATE-DESIGNATED HEALTH INFORMATION EXCHANGE.

31           (D) THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE SHALL  
32 ENSURE THAT ELECTRONIC ADVANCE DIRECTIVES SERVICES DO NOT HAVE ACCESS

1 TO INFORMATION STORED ON THE STATE-DESIGNATED HEALTH INFORMATION  
 2 EXCHANGE.

3 Article – Insurance

4 ~~15-122.1.~~

5 (a) (1) ~~In this section the following words have the meanings indicated.~~

6 (2) ~~“Advance directive” has the meaning stated in § 5-601 of the Health~~  
 7 ~~General Article.~~

8 (3) (i) ~~“Carrier” means:~~

9 1. ~~an insurer;~~

10 2. ~~a nonprofit health service plan;~~

11 3. ~~a health maintenance organization; and~~

12 4. ~~any other person that provides health benefit plans~~  
 13 ~~subject to regulation by the State.~~

14 (ii) ~~“Carrier” does not include a managed care organization.~~

15 (b) ~~A carrier shall provide the advance directive information sheet developed~~  
 16 ~~under § 5-615 of the Health General Article:~~

17 (1) ~~in the carrier’s member publications;~~

18 (2) ~~if the carrier maintains a Web site on the Internet, on the carrier’s Web~~  
 19 ~~site; and~~

20 (3) ~~at the request of a member.~~

21 ~~(C) EACH CARRIER SHALL OFFER ELECTRONIC ADVANCE DIRECTIVES TO~~  
 22 ~~ITS MEMBERS OR ENROLLEES DURING OPEN ENROLLMENT.~~

23 ~~(D) A CARRIER MAY CONTRACT WITH ANY ELECTRONIC ADVANCE~~  
 24 ~~DIRECTIVES SERVICE IF THE SERVICE:~~

25 (1) ~~IS APPROVED BY THE MARYLAND HEALTH CARE COMMISSION~~  
 26 ~~AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE; AND~~

27 (2) ~~MEETS THE TECHNOLOGY, SECURITY, AND PRIVACY STANDARDS~~  
 28 ~~SET BY THE MARYLAND HEALTH CARE COMMISSION.~~

1 6-103.1.

2 Notwithstanding § 2-114 of this article, beginning January 15, 2006, from the tax  
3 imposed on the health insurers under this subtitle, \$500,000 shall be distributed annually  
4 to the Spinal Cord Injury Research Trust Fund created under § 13-1406 of the  
5 Health – General Article.

6 31-108.

7 **(G) THE EXCHANGE SHALL PROVIDE THE ADVANCE DIRECTIVE**  
8 **INFORMATION SHEET DEVELOPED UNDER § 5-615 OF THE HEALTH – GENERAL**  
9 **ARTICLE:**

10 **(1) IN THE EXCHANGE’S CONSUMER PUBLICATIONS;**

11 **(2) ON THE EXCHANGE’S WEB SITE; AND**

12 **(3) AT THE REQUEST OF AN APPLICANT.**

13 ~~**Article – State Personnel and Pensions**~~

14 ~~**2-503.**~~

15 ~~**(E) THE SECRETARY SHALL OFFER ELECTRONIC ADVANCE DIRECTIVES TO**~~  
16 ~~**EMPLOYEES DURING OPEN ENROLLMENT FOR HEALTH INSURANCE BENEFITS**~~  
17 ~~**UNDER THE PROGRAM.**~~

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2016.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.