

# SENATE BILL 837

J1, C3

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By: **Senator Kramer**

Introduced and read first time: February 9, 2021

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 28, 2021

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

1 AN ACT concerning

2 **Health – Advance Care Planning and Advance Directives**

3 FOR the purpose of requiring the Maryland Health Care Commission to coordinate the  
4 implementation of advance care planning programs in the State; requiring that the  
5 coordination include adoption and implementation of certain measures and  
6 development and implementation of certain quality metrics; requiring each health  
7 insurance carrier to offer electronic advance directives to its members and enrollees  
8 at certain times and make arrangements to receive certain notifications; authorizing  
9 a health insurance carrier to contract with an electronic advance directives service  
10 under certain circumstances; defining certain terms; requiring the Motor Vehicle  
11 Administration to submit a certain report to certain committees of the General  
12 Assembly on or before a certain date; ~~requiring the Maryland Department of Health,  
13 in collaboration with local jurisdictions in the State, to develop and implement, for  
14 certain years, a plan to provide information about advance care planning and the  
15 State-designated electronic advance directive system, and the opportunity to upload  
16 certain documents to a certain system or create a certain plan, to certain individuals;~~  
17 providing for the application of certain provisions of this Act; and generally relating  
18 to advance care planning and advance directives.

19 BY adding to

20 Article – Health – General

21 Section 19–145

22 Annotated Code of Maryland

23 (2019 Replacement Volume and 2020 Supplement)

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### 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.



1 BY repealing and reenacting, with amendments,  
2 Article – Insurance  
3 Section 15–122.1  
4 Annotated Code of Maryland  
5 (2017 Replacement Volume and 2020 Supplement)

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

8 **Article – Health – General**

9 **19–145.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
11 INDICATED.

12 (2) “ADVANCE CARE PLANNING” MEANS A PROCESS THROUGH WHICH  
13 AN INDIVIDUAL CONSIDERS AND DOCUMENTS IN A FORMAL MANNER THE  
14 INDIVIDUAL’S PREFERENCES FOR THE RECEIPT OF HEALTH CARE, INCLUDING  
15 THROUGH THE USE OF AN ADVANCE DIRECTIVE.

16 (3) “ADVANCE DIRECTIVE” HAS THE MEANING STATED IN § 5–601 OF  
17 THIS ARTICLE.

18 (4) “HEALTH SYSTEM” MEANS:

19 (I) A PARENT CORPORATION OF ONE OR MORE HOSPITALS AND  
20 ANY ENTITY AFFILIATED WITH THE PARENT CORPORATION THROUGH OWNERSHIP,  
21 GOVERNANCE, MEMBERSHIP, OR OTHER MEANS; OR

22 (II) A HOSPITAL AND ANY ENTITY AFFILIATED WITH THE  
23 HOSPITAL THROUGH OWNERSHIP, GOVERNANCE, MEMBERSHIP, OR OTHER MEANS.

24 (B) (1) THE COMMISSION SHALL COORDINATE THE IMPLEMENTATION OF  
25 ADVANCE CARE PLANNING PROGRAMS IN THE STATE.

26 (2) THE COORDINATION PROVIDED BY THE COMMISSION UNDER THIS  
27 SECTION SHALL INCLUDE:

28 (I) ADOPTION AND IMPLEMENTATION OF MEASURES  
29 REQUIRING THAT ACTIONS BE TAKEN BY HEALTH SYSTEMS AND HEALTH CARE  
30 PROVIDERS TO ENCOURAGE INDIVIDUALS TO UPLOAD, CREATE, UPDATE, AND MAKE  
31 ACCESSIBLE ELECTRONIC ADVANCE CARE PLANNING DOCUMENTS THROUGH:

1                   **1. THE USE OF AN ELECTRONIC ADVANCE DIRECTIVE**  
 2 **SERVICE RECOGNIZED BY THE COMMISSION UNDER § 19-144 OF THIS SUBTITLE;**  
 3 **AND**

4                   **2. CONNECTION TO THE STATE-DESIGNATED HEALTH**  
 5 **INFORMATION EXCHANGE; AND**

6                   **(II) DEVELOPMENT AND IMPLEMENTATION OF QUALITY**  
 7 **METRICS FOR THE ADOPTION AND USE OF PROCESSES AND TOOLS BY HEALTH CARE**  
 8 **SYSTEMS AND HEALTH CARE PROVIDERS TO FACILITATE ADVANCE CARE PLANNING**  
 9 **BY INDIVIDUALS.**

10   **Article – Insurance**

11 15-122.1.

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

13                   (2)   “Advance directive” has the meaning stated in § 5-601 of the Health –  
 14 General Article.

15                   (3)   (i)   “Carrier” means:

16                                   1.   an insurer;

17                                   2.   a nonprofit health service plan;

18                                   3.   a health maintenance organization; and

19                                   4.   any other person that provides health benefit plans  
 20 subject to regulation by the State.

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

22           (b)   A carrier shall provide the advance directive information sheet developed  
 23 under § 5-615 of the Health – General Article:

24                   (1)   in the carrier’s member publications;

25                   (2)   if the carrier maintains a Web site on the Internet, on the carrier’s Web  
 26 site; and

27                   (3)   at the request of a member.

28           **(C) EACH CARRIER SHALL:**

1           **(1) OFFER ELECTRONIC ADVANCE DIRECTIVES TO ITS MEMBERS OR**  
 2 **ENROLLEES DURING OPEN ENROLLMENT AND PERIODICALLY THEREAFTER; AND**

3           **(2) MAKE ARRANGEMENTS TO RECEIVE STATUS NOTIFICATIONS AS TO**  
 4 **WHETHER MEMBERS OR ENROLLEES OF THE CARRIER HAVE COMPLETED OR**  
 5 **UPDATED AN ADVANCE DIRECTIVE.**

6           **(D) A CARRIER MAY CONTRACT WITH AN ELECTRONIC ADVANCE**  
 7 **DIRECTIVES SERVICE IF THE SERVICE:**

8           **(1) IS APPROVED BY THE MARYLAND HEALTH CARE COMMISSION;**  
 9 **AND**

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

12           SECTION 2. AND BE IT FURTHER ENACTED, That:

13           (a) On or before December 1, 2021, the Motor Vehicle Administration shall submit  
 14 a report to the Senate Finance Committee and the House Health and Government  
 15 Operations Committee, in accordance with § 2–1257 of the State Government Article, that  
 16 provides an update on the status of implementing the requirements of § 12–303.1 of the  
 17 Transportation Article relating to advance directives.

18           (b) The report required under this section shall include:

19           (1) a timeline for implementation of the requirements of § 12–303.1 of the  
 20 Transportation Article;

21           (2) identification of any obstacles to implementation of the requirements;  
 22 and

23           (3) measures being taken by the Motor Vehicle Administration to resolve  
 24 any identified obstacles and implement the requirements of § 12–303.1 of the  
 25 Transportation Article.

26           ~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

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

28           ~~(2) “Advance care planning” means a process through which an individual~~  
 29 ~~considers and documents in a formal manner the individual’s preferences for the receipt of~~  
 30 ~~health care, including through the use of an advance directive.~~

31           ~~(3) “Advance directive” has the meaning stated in § 5–601 of the Health~~  
 32 ~~General Article.~~

1           ~~(4) “COVID-19” means, interchangeably and collectively, the coronavirus~~  
 2 ~~known as COVID-19 or 2019-nCoV and the SARS-CoV-2 virus.~~

3           ~~(b) For calendar years 2021 and 2022, the Maryland Department of Health, in~~  
 4 ~~collaboration with local jurisdictions in the State, shall develop and implement a plan to~~  
 5 ~~provide to individuals receiving a COVID-19 vaccine at a location established by the State~~  
 6 ~~or a local jurisdiction for the administration of COVID-19 vaccines information about~~  
 7 ~~advance care planning and the State-designated electronic advance directive system, and~~  
 8 ~~the opportunity to:~~

9           ~~(1) upload paper documents to the State-designated electronic advance~~  
 10 ~~directive system; or~~

11           ~~(2) create a digital advance directive care plan that is stored in the~~  
 12 ~~State-designated electronic advance directive system.~~

13           SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That § 15-122.1 of the Insurance  
 14 Article, as enacted by Section 1 of this Act, shall apply to all policies, contracts, and health  
 15 benefit plans issued, delivered, or renewed in the State on or after June 1, 2021.

16           SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 17 June 1, 2021.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.