
By: **The Speaker (By Request - Administration) and Delegates Aumann, Bartlett, Boschert, Boteler, Cluster, Cryor, Donoghue, Dwyer, Eckardt, Edwards, Elliott, Elmore, Frank, Glassman, Haddaway, Hogan, Impallaria, Jennings, Kelly, Kohl, Krebs, Kullen, Mayer, McComas, McKee, McMillan, Miller, Myers, Parrott, Shank, Shewell, Smigiel, Stocksdale, Stull, Taylor, Walkup, Weir, and Weldon**

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Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 19, 2006

CHAPTER _____

1 AN ACT concerning

2 **Health - Advance Directives - Registry - Drivers' Licenses and Identification**
3 **Cards**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to
5 establish an advance directive registry in the Department; authorizing the
6 Secretary to adopt certain regulations; authorizing the Secretary to establish
7 certain fees by regulation; limiting the fees to a certain amount; authorizing the
8 Department to obtain services by contract; requiring the Department to be
9 responsible for the registry; requiring the Department to carry out certain
10 educational and outreach efforts; allowing the registration of advance directives;
11 requiring a certain database; requiring registrants to provide certain
12 information; providing certain immunity to health care practitioners; requiring
13 the Motor Vehicle Administration to provide for a method by which an
14 individual, on request, may have a notation placed on the individual's driver's
15 license or identification card indicating that the individual has made an advance
16 directive; providing for the removal of the notation from the driver's license or
17 identification card on written request; requiring a health care provider to ~~assist~~
18 ~~a registrant to notify the Department~~ provide certain information to certain
19 registrants under certain circumstances; requiring the Secretary to designate
20 certain individuals who may access the registry database; requiring the
21 Secretary to adopt regulations relating to registry access; authorizing the
22 Department to perform evaluations of the registry; providing for a delayed
23 effective date; defining certain terms; requiring the Department to consult with

1 certain stakeholders in implementing an Advance Directives Registry; and
2 generally relating to advance directives.

3 BY repealing and reenacting, without amendments,
4 Article - Health - General
5 Section 5-601(a) and (b) and 5-615
6 Annotated Code of Maryland
7 (2005 Replacement Volume and 2005 Supplement)

8 BY adding to
9 Article - Health - General
10 The part designation "Part I. Advance Directives" to immediately precede
11 Section 5-601; and 5-619 through 5-626, inclusive, to be under the new
12 part "Part II. Advance Directive Registry"
13 Annotated Code of Maryland
14 (2005 Replacement Volume and 2005 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Health - General
17 Section 5-618
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2005 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Transportation
22 Section 12-303.1
23 Annotated Code of Maryland
24 (2002 Replacement Volume and 2005 Supplement)

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

27 **Article - Health - General**

28 **PART I. ADVANCE DIRECTIVES.**

29 5-601.

30 (a) In this subtitle the following words have the meanings indicated.

31 (b) "Advance directive" means:

32 (1) A witnessed written document, voluntarily executed by the declarant
33 in accordance with the requirements of this subtitle; or

1 (2) A witnessed oral statement, made by the declarant in accordance
2 with the provisions of this subtitle.

3 5-615.

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

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

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

13 (i) Written statements informing an individual that an advance
14 directive:

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

17 2. Allows an individual to specify the medical care that the
18 individual will receive and can alleviate conflict among family members and health
19 care providers;

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

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

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

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

27 7. Does not have to be on any specific form and can be
28 personalized; and

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

31 (ii) The following written statements:

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

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

1 5-621.

2 THE SECRETARY MAY ADOPT REGULATIONS TO ENSURE THE EFFICIENT
3 OPERATION OF THE REGISTRY.

4 5-622.

5 (A) (1) THE SECRETARY MAY, BY REGULATION, SET A FEE FOR ANY SERVICE
6 OF THE REGISTRY, INCLUDING AN INITIAL FEE TO UTILIZE THE SERVICES OF THE
7 REGISTRY AND RENEWAL FEES.

8 (2) THE FEES SET BY THE SECRETARY MAY NOT, IN THE AGGREGATE,
9 EXCEED THE DEPARTMENT'S COSTS TO ESTABLISH AND OPERATE THE REGISTRY.

10 (B) (1) THE DEPARTMENT MAY, BY CONTRACT, OBTAIN FROM ANY PERSON
11 SERVICES RELATED TO THE ESTABLISHMENT AND OPERATION OF THE REGISTRY.

12 (2) NOTWITHSTANDING ANY CONTRACT IN ACCORDANCE WITH
13 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT IS RESPONSIBLE FOR THE
14 REGISTRY.

15 (C) THE DEPARTMENT SHALL CARRY OUT APPROPRIATE EDUCATIONAL AND
16 OUTREACH EFFORTS TO INCREASE PUBLIC AWARENESS OF THE REGISTRY.

17 5-623.

18 (A) AN INDIVIDUAL MAY REGISTER WITH THE DEPARTMENT AN ADVANCE
19 DIRECTIVE.

20 (B) (1) THE REGISTRANT SHALL NOTIFY THE REGISTRY IF THE REGISTRANT
21 HAS AMENDED OR REVOKED A REGISTERED ADVANCE DIRECTIVE.

22 (2) A HEALTH CARE PROVIDER THAT BECOMES AWARE THAT A
23 REGISTRANT HAS AMENDED OR REVOKED A REGISTERED ADVANCE DIRECTIVE
24 SHALL, AT THE REQUEST OF THE REGISTRANT, ~~ASSIST THE REGISTRANT IN~~
25 NOTIFYING PROVIDE THE REGISTRANT WITH INFORMATION ON HOW TO NOTIFY THE
26 REGISTRY.

27 (C) AN INDIVIDUAL IS NOT REQUIRED TO SUBMIT AN ADVANCE DIRECTIVE TO
28 THE REGISTRY.

29 (D) NOTHING IN THIS PART II OF THIS SUBTITLE AFFECTS THE VALIDITY OF
30 AN ADVANCE DIRECTIVE THAT IS NOT SUBMITTED TO THE REGISTRY.

31 5-624.

32 (A) THE REGISTRY SHALL CONSIST OF A SECURE, ELECTRONIC DATABASE TO
33 WHICH AUTHORIZED ACCESS IS AVAILABLE 24 HOURS PER DAY, 7 DAYS PER WEEK.

34 (B) THE SECRETARY SHALL SPECIFY IN REGULATIONS THE PERSONS WHO
35 ARE AUTHORIZED TO ACCESS THE REGISTRY, INCLUDING:

1 (1) THE REGISTRANT OR THE REGISTRANT'S DESIGNEE; AND

2 (2) REPRESENTATIVES OF A HEALTH CARE FACILITY IN WHICH A
3 REGISTRANT IS RECEIVING HEALTH CARE.

4 (C) THE SECRETARY SHALL ADOPT REGULATIONS REGARDING ACCESS TO
5 THE REGISTRY, INCLUDING PROCEDURES TO PROTECT CONFIDENTIAL
6 INFORMATION.

7 (D) THE DEPARTMENT MAY PERFORM EVALUATIONS OF THE REGISTRY.

8 5-625.

9 BEFORE ACCEPTING AN ADVANCE DIRECTIVE INTO THE REGISTRY, THE
10 DEPARTMENT SHALL REVIEW AND VERIFY THAT THE ADVANCE DIRECTIVE
11 INCLUDES:

12 (1) THE SIGNATURE OF THE DECLARANT;

13 (2) THE DATE ON WHICH THE ADVANCE DIRECTIVE WAS SIGNED BY THE
14 DECLARANT; AND

15 (3) THE SIGNATURE OF TWO WITNESSES AS PROVIDED IN § 5-602(C) OF
16 THIS SUBTITLE.

17 5-626.

18 A HEALTH CARE PROVIDER IS NOT SUBJECT TO CRIMINAL PROSECUTION OR
19 CIVIL LIABILITY OR DEEMED TO HAVE ENGAGED IN UNPROFESSIONAL CONDUCT AS
20 DETERMINED BY THE APPROPRIATE LICENSING AUTHORITY FOR:

21 (1) FAILURE TO ACCESS THE REGISTRY; OR

22 (2) RELYING ON INFORMATION PROVIDED BY THE REGISTRY.

23 **Article - Transportation**

24 12-303.1.

25 (a) In this section, "advance directive" has the meaning stated in § 5-601 of
26 the Health - General Article.

27 (b) The Administration shall provide for a method by which an applicant for a
28 driver's license or identification card shall be made aware of, and informed how to
29 obtain, the advance directive information sheet developed under § 5-615 of the
30 Health - General Article.

31 (C) (1) THE ADMINISTRATION SHALL PROVIDE A METHOD BY WHICH A
32 NOTATION INDICATING THAT THE APPLICANT HAS AN ADVANCE DIRECTIVE
33 REGISTERED WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE MAY BE
34 PLACED ON THE DRIVER'S LICENSE OR IDENTIFICATION CARD.

1 (2) THE NOTATION SHALL BE ADDED ONLY ON WRITTEN REQUEST OF
2 THE APPLICANT.

3 (3) THE NOTATION MAY BE REMOVED AT ANY TIME ON WRITTEN
4 REQUEST.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Health
6 and Mental Hygiene, in consultation with appropriate stakeholders, shall adopt
7 regulations providing for a review of the compliance with advance directives by
8 certain licensed health care facilities.

9 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
10 Health and Mental Hygiene, in consultation with stakeholders that include the Office
11 of Minority Health and Health Disparities, the Maryland State Police, the Maryland
12 Institute for Emergency Medical Services Systems, the Motor Vehicle Administration,
13 and other interested parties, shall adopt regulations to implement an Advance
14 Directives Registry including education and outreach programs.

15 SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect July 1, 2007.