

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Health and Government Operations --

Introduced by **The President (By Request - Administration) and Senators
Brinkley, Colburn, Forehand, Giannetti, Jacobs, Kittleman, Munson,
and Schrader**

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.

President.

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

1 directive; providing for the removal of the notation from the driver's license or
2 identification card on written request; requiring a health care provider to ~~assist~~
3 ~~a registrant to notify the Department~~ provide certain information to certain
4 registrants under certain circumstances; requiring the Secretary to designate
5 certain individuals who may access the registry database; requiring the
6 Secretary to adopt regulations relating to registry access; authorizing the
7 Department to perform evaluations of the registry; providing for a delayed
8 effective date; defining certain terms; requiring the Department to consult with
9 certain stakeholders in implementing an Advance Directives Registry; making
10 this Act subject to a certain contingency; and generally relating to advance
11 directives.

12 BY repealing and reenacting, without amendments,
13 Article - Health - General
14 Section 5-601(a) and (b) and 5-615
15 Annotated Code of Maryland
16 (2005 Replacement Volume and 2005 Supplement)

17 BY adding to
18 Article - Health - General
19 The part designation "Part I. Advance Directives" to immediately precede
20 Section 5-601; and 5-619 through 5-626, inclusive, to be under the new
21 part "Part II. Advance Directive Registry"
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2005 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Health - General
26 Section 5-618
27 Annotated Code of Maryland
28 (2005 Replacement Volume and 2005 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article - Transportation
31 Section 12-303.1
32 Annotated Code of Maryland
33 (2002 Replacement Volume and 2005 Supplement)

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

1 **Article - Health - General**

2 PART I. ADVANCE DIRECTIVES.

3 5-601.

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

5 (b) "Advance directive" means:

6 (1) A witnessed written document, voluntarily executed by the declarant
7 in accordance with the requirements of this subtitle; or8 (2) A witnessed oral statement, made by the declarant in accordance
9 with the provisions of this subtitle.

10 5-615.

11 (a) In this section, "health care facility" has the meaning stated in § 19-114 of
12 this article.13 (b) Each health care facility shall provide each individual on admittance to the
14 facility information concerning the rights of the individual to make decisions
15 concerning health care, including the right to accept or refuse treatment, and the
16 right to make an advance directive, including a living will.17 (c) (1) The Department, in consultation with the Office of the Attorney
18 General, shall develop an information sheet that provides information relating to
19 advance directives, which shall include:20 (i) Written statements informing an individual that an advance
21 directive:22 1. Is a useful, legal, and well established way for an
23 individual to direct medical care;24 2. Allows an individual to specify the medical care that the
25 individual will receive and can alleviate conflict among family members and health
26 care providers;27 3. Can ensure that an individual's religious beliefs are
28 considered when directing medical care;29 4. Is most effective if completed in consultation with family
30 members, or legal and religious advisors, if an individual desires;

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

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

1 ~~(B)~~ (C) "REGISTRANT" MEANS AN INDIVIDUAL WHO REGISTERS AN
2 ADVANCE DIRECTIVE WITH THE DEPARTMENT.

3 ~~(C)~~ (D) "REGISTRY" MEANS THE REPOSITORY FOR ADVANCE DIRECTIVES IN
4 THE DEPARTMENT.

5 5-620.

6 THERE IS AN ADVANCE DIRECTIVE REGISTRY IN THE DEPARTMENT.

7 5-621.

8 THE SECRETARY MAY ADOPT REGULATIONS TO ENSURE THE EFFICIENT
9 OPERATION OF THE REGISTRY.

10 5-622.

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

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

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

18 (2) NOTWITHSTANDING ANY CONTRACT IN ACCORDANCE WITH
19 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT IS RESPONSIBLE FOR THE
20 REGISTRY.

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

23 5-623.

24 (A) AN INDIVIDUAL MAY REGISTER WITH THE DEPARTMENT AN ADVANCE
25 DIRECTIVE.

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

28 (2) A HEALTH CARE PROVIDER THAT BECOMES AWARE THAT A
29 REGISTRANT HAS AMENDED OR REVOKED A REGISTERED ADVANCE DIRECTIVE
30 SHALL, AT THE REQUEST OF THE REGISTRANT, ~~ASSIST THE REGISTRANT IN~~
31 NOTIFYING ~~PROVIDE THE REGISTRANT WITH INFORMATION ON HOW TO NOTIFY THE~~
32 REGISTRY.

33 (C) AN INDIVIDUAL IS NOT REQUIRED TO SUBMIT AN ADVANCE DIRECTIVE TO
34 THE REGISTRY.

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

3 5-624.

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

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

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

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

11 (C) THE SECRETARY SHALL ADOPT REGULATIONS REGARDING ACCESS TO
12 THE REGISTRY, INCLUDING PROCEDURES TO PROTECT CONFIDENTIAL
13 INFORMATION.

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

15 5-625.

16 BEFORE ACCEPTING AN ADVANCE DIRECTIVE INTO THE REGISTRY, THE
17 DEPARTMENT SHALL REVIEW AND VERIFY THAT THE ADVANCE DIRECTIVE
18 INCLUDES:

19 (1) THE SIGNATURE OF THE DECLARANT;

20 (2) THE DATE ON WHICH THE ADVANCE DIRECTIVE WAS SIGNED BY THE
21 DECLARANT; AND

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

24 5-626.

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

28 (1) FAILURE TO ACCESS THE REGISTRY; OR

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

Article - Transportation

12-303.1.

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

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

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

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

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

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

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

~~SECTION 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007, contingent on the taking effect of Chapter (S.B. 369/H.B. 592) of the Acts of the General Assembly of 2006, and if Chapter does not become effective, this Act shall be null and void without the necessity of further action by the General Assembly.

