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

Introduced and read first time: January 24, 2006

Rules suspended

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

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 under certain circumstances; requiring  
19 the Secretary to designate certain individuals who may access the registry  
20 database; requiring the Secretary to adopt regulations relating to registry  
21 access; authorizing the Department to perform evaluations of the registry;  
22 providing for a delayed effective date; defining certain terms; and generally  
23 relating to advance directives.

24 BY repealing and reenacting, without amendments,  
25 Article - Health - General  
26 Section 5-601(a) and (b) and 5-615  
27 Annotated Code of Maryland  
28 (2005 Replacement Volume and 2005 Supplement)

29 BY adding to  
30 Article - Health - General

1 The part designation "Part I. Advance Directives" to immediately precede  
2 Section 5-601; and 5-619 through 5-626, inclusive, to be under the new  
3 part "Part II. Advance Directive Registry"  
4 Annotated Code of Maryland  
5 (2005 Replacement Volume and 2005 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article - Health - General  
8 Section 5-618  
9 Annotated Code of Maryland  
10 (2005 Replacement Volume and 2005 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article - Transportation  
13 Section 12-303.1  
14 Annotated Code of Maryland  
15 (2002 Replacement Volume and 2005 Supplement)

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

18 **Article - Health - General**

19 **PART I. ADVANCE DIRECTIVES.**

20 5-601.

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

22 (b) "Advance directive" means:

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

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

27 5-615.

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

30 (b) Each health care facility shall provide each individual on admittance to the  
31 facility information concerning the rights of the individual to make decisions  
32 concerning health care, including the right to accept or refuse treatment, and the  
33 right to make an 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  
3 advance 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  
10 care 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  
28 incapable of 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:

33 (i) The Department, in accordance with § 15-109.1 of this article;

1 (ii) The Motor Vehicle Administration, in accordance with §  
2 12-303.1 of the Transportation Article; and

3 (iii) A carrier, in accordance with § 15-122.1 of the Insurance  
4 Article.

5 (3) The information sheet developed by the Department under this  
6 subsection may not contain or promote a specific advance directive form.

7 5-618.

8 The provisions of this PART I OF THIS subtitle shall be known and may be cited  
9 as the "Health Care Decisions Act".

10 PART II. ADVANCE DIRECTIVE REGISTRY.

11 5-619.

12 (A) IN THIS PART II OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE  
13 MEANINGS INDICATED.

14 (B) "REGISTRANT" MEANS AN INDIVIDUAL WHO REGISTERS AN ADVANCE  
15 DIRECTIVE WITH THE DEPARTMENT.

16 (C) "REGISTRY" MEANS THE REPOSITORY FOR ADVANCE DIRECTIVES IN THE  
17 DEPARTMENT.

18 5-620.

19 THERE IS AN ADVANCE DIRECTIVE REGISTRY IN THE DEPARTMENT.

20 5-621.

21 THE SECRETARY MAY ADOPT REGULATIONS TO ENSURE THE EFFICIENT  
22 OPERATION OF THE REGISTRY.

23 5-622.

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

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

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

31 (2) NOTWITHSTANDING ANY CONTRACT IN ACCORDANCE WITH  
32 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT IS RESPONSIBLE FOR THE  
33 REGISTRY.

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

3 5-623.

4 (A) AN INDIVIDUAL MAY REGISTER WITH THE DEPARTMENT AN ADVANCE  
5 DIRECTIVE.

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

8 (2) A HEALTH CARE PROVIDER THAT BECOMES AWARE THAT A  
9 REGISTRANT HAS AMENDED OR REVOKED A REGISTERED ADVANCE DIRECTIVE  
10 SHALL, AT THE REQUEST OF THE REGISTRANT, ASSIST THE REGISTRANT IN  
11 NOTIFYING THE REGISTRY.

12 (C) AN INDIVIDUAL IS NOT REQUIRED TO SUBMIT AN ADVANCE DIRECTIVE TO  
13 THE REGISTRY.

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

16 5-624.

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

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

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

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

24 (C) THE SECRETARY SHALL ADOPT REGULATIONS REGARDING ACCESS TO  
25 THE REGISTRY, INCLUDING PROCEDURES TO PROTECT CONFIDENTIAL  
26 INFORMATION.

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

28 5-625.

29 BEFORE ACCEPTING AN ADVANCE DIRECTIVE INTO THE REGISTRY, THE  
30 DEPARTMENT SHALL REVIEW AND VERIFY THAT THE ADVANCE DIRECTIVE  
31 INCLUDES:

32 (1) THE SIGNATURE OF THE DECLARANT;

33 (2) THE DATE ON WHICH THE ADVANCE DIRECTIVE WAS SIGNED BY THE  
34 DECLARANT; AND

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

3 5-626.

4 A HEALTH CARE PROVIDER IS NOT SUBJECT TO CRIMINAL PROSECUTION OR  
5 CIVIL LIABILITY OR DEEMED TO HAVE ENGAGED IN UNPROFESSIONAL CONDUCT AS  
6 DETERMINED BY THE APPROPRIATE LICENSING AUTHORITY FOR FAILURE TO  
7 ACCESS THE REGISTRY.

8 **Article - Transportation**

9 12-303.1.

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

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

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

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

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

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

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 July 1, 2007.