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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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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2006

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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  
24 certain stakeholders in implementing an Advance Directives Registry; making  
25 this Act subject to a certain contingency; and generally relating to advance

1 directives.

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

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

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

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

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

26 **Article - Health - General**

27 **PART I. ADVANCE DIRECTIVES.**

28 5-601.

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

30 (b) "Advance directive" means:

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

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

1 5-615.

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

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

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

11 (i) Written statements informing an individual that an advance  
12 directive:

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

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

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

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

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

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

25 7. Does not have to be on any specific form and can be  
26 personalized; and

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

29 (ii) The following written statements:

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

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

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

1 4. That an individual is not required to complete an advance  
2 directive.

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

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

6 (ii) The Motor Vehicle Administration, in accordance with §  
7 12-303.1 of the Transportation Article; and

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

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

12 5-618.

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

15 PART II. ADVANCE DIRECTIVE REGISTRY.

16 5-619.

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

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

21 (C) "REGISTRY" MEANS THE REPOSITORY FOR ADVANCE DIRECTIVES IN THE  
22 DEPARTMENT.

23 5-620.

24 THERE IS AN ADVANCE DIRECTIVE REGISTRY IN THE DEPARTMENT.

25 5-621.

26 THE SECRETARY MAY ADOPT REGULATIONS TO ENSURE THE EFFICIENT  
27 OPERATION OF THE REGISTRY.

28 5-622.

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

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

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

5 (2) NOTWITHSTANDING ANY CONTRACT IN ACCORDANCE WITH  
6 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT IS RESPONSIBLE FOR THE  
7 REGISTRY.

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

10 5-623.

11 (A) AN INDIVIDUAL MAY REGISTER WITH THE DEPARTMENT AN ADVANCE  
12 DIRECTIVE.

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

15 (2) A HEALTH CARE PROVIDER THAT BECOMES AWARE THAT A  
16 REGISTRANT HAS AMENDED OR REVOKED A REGISTERED ADVANCE DIRECTIVE  
17 SHALL, AT THE REQUEST OF THE REGISTRANT, ~~ASSIST THE REGISTRANT IN~~  
18 NOTIFYING PROVIDE THE REGISTRANT WITH INFORMATION ON HOW TO NOTIFY THE  
19 REGISTRY.

20 (C) AN INDIVIDUAL IS NOT REQUIRED TO SUBMIT AN ADVANCE DIRECTIVE TO  
21 THE REGISTRY.

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

24 5-624.

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

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

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

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

32 (C) THE SECRETARY SHALL ADOPT REGULATIONS REGARDING ACCESS TO  
33 THE REGISTRY, INCLUDING PROCEDURES TO PROTECT CONFIDENTIAL  
34 INFORMATION.

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

1 5-625.

2 BEFORE ACCEPTING AN ADVANCE DIRECTIVE INTO THE REGISTRY, THE  
3 DEPARTMENT SHALL REVIEW AND VERIFY THAT THE ADVANCE DIRECTIVE  
4 INCLUDES:

5 (1) THE SIGNATURE OF THE DECLARANT;

6 (2) THE DATE ON WHICH THE ADVANCE DIRECTIVE WAS SIGNED BY THE  
7 DECLARANT; AND

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

10 5-626.

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

14 (1) FAILURE TO ACCESS THE REGISTRY; OR

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

16 **Article - Transportation**

17 12-303.1.

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

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

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

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

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of Health  
33 and Mental Hygiene, in consultation with appropriate stakeholders, shall adopt

1 regulations providing for a review of the compliance with advance directives by  
2 certain licensed health care facilities.

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

10 SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
11 effect July 1, 2007, contingent on the taking effect of Chapter \_\_\_\_\_ (S.B. 369) of the  
12 Acts of the General Assembly of 2006, and if Chapter \_\_\_\_\_ does not become effective,  
13 this Act shall be null and void without the necessity of further action by the General  
14 Assembly.