

**HB1385/697074/1**

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 1385  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 19, after “directives;” insert “repealing the Advance Directive Registry in the Department; establishing an Advance Directive Program in the Department; repealing certain powers and duties of the Secretary of Health and Mental Hygiene and the Department relating to the Registry; authorizing the Secretary to adopt certain regulations for the Program; authorizing an individual to register an advance directive with a certain advance directives service; requiring a registrant to provide certain notice to a certain advance directives service under certain circumstances; requiring a health care provider to provide a registrant with certain information under certain circumstances; providing that an individual is not required to submit an advance directive to a certain advance directives service; requiring the Department to take certain actions before accepting an advance directive into a certain advance directives service; establishing certain immunity for a health care provider for failing to access a certain advance directives service or relying on information provided by a certain advance directives service; altering a certain definition; repealing a certain definition;”; in line 23, strike “Registry” and substitute “Program”; and strike in their entirety lines 42 and 43 and substitute “Section 5-602(a) and (c), 5-615; 5-619 through 5-623, 5-625, and 5-626 to be under the amended part “Part II. Advance Directive Program”; 13-406, and 15-109.1”.

On page 3, strike in their entirety lines 1 through 5, inclusive; and after line 10, insert:

“BY repealing

Article - Health - General

Section 5-624

Annotated Code of Maryland

(2015 Replacement Volume)”.

(Over)

AMENDMENT NO. 2

On page 4, strike beginning with “USING” in line 22 down through “ESTABLISHED” in line 24; and strike beginning with the semicolon in line 26 down through “COMMISSION” in line 28.

On page 8, after line 1, insert:

“Part II. Advance Directive [Registry] PROGRAM.

5–619.

(a) In this Part II of this subtitle the following words have the meanings indicated.

(b) “Advance directive” has the meaning stated in § 5–601 of this subtitle.

(c) “Registrant” means an individual who registers an advance directive with [the Department] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.

[(d) “Registry” means the repository for advance directives in the Department.]”;

in line 3, strike “Registry” and substitute “PROGRAM”; after line 3, insert:

“5–621.

The Secretary may adopt regulations to ensure the efficient operation of the [Registry] PROGRAM.”;

strike in their entirety lines 5 through 12, inclusive; in lines 13 and 23, strike “(C)” and “(D)”, respectively, and substitute “(A)” and “(B)”, respectively; and in line 24, strike

“the Registry” and substitute “AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION”.

On page 10, after line 6, insert:

“5-623.

(a) An individual may register AN ADVANCE DIRECTIVE with [the Department an advance directive] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.

(b) (1) The registrant shall notify the [Registry] ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION if the registrant has amended or revoked a registered advance directive.

(2) A health care provider that becomes aware that a registrant has amended or revoked a registered advance directive shall, at the request of the registrant, provide the registrant with information on how to notify the [Registry] ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.

(c) An individual is not required to submit an advance directive to [the Registry] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.

(d) Nothing in this Part II of this subtitle affects the validity of an advance directive that is not submitted to [the Registry] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.

[5-624.

(Over)

(a) The Registry shall consist of a secure, electronic database to which authorized access is available 24 hours per day, 7 days per week.

(b) The Secretary shall specify in regulations the persons who are authorized to access the Registry, including:

(1) The registrant or the registrant's designee; and

(2) Representatives of a health care facility in which a registrant is receiving health care.

(c) The Secretary shall adopt regulations regarding access to the Registry, including procedures to protect confidential information.

(d) The Department may perform evaluations of the Registry.]

**[5-625.] 5-624.**

Before accepting an advance directive into [the Registry] **AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION**, the Department shall review and verify that the advance directive includes:

(1) The signature of the declarant;

(2) The date on which the advance directive was signed by the declarant; and

(3) The signature of two witnesses as provided in § 5-602(c) of this subtitle.

**[5-626.] 5-625.**

A health care provider is not subject to criminal prosecution or civil liability or deemed to have engaged in unprofessional conduct as determined by the appropriate licensing authority for:

(1) Failure to access [the Registry] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION; or

(2) Relying on information provided by [the Registry] AN ELECTRONIC ADVANCE DIRECTIVES SERVICE RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.”;

and in line 15, strike “REGISTRY” and substitute “PROGRAM”.

On page 12, strike in their entirety lines 20 through 24, inclusive; in line 25, strike “(1)” and substitute “(2)”; in the same line, strike “ESTABLISHED” and substitute “BE ESTABLISHED”; and strike beginning with “AND” in line 27 down through “(4)” in line 30 and substitute “(3)”.

On page 13, in line 1, strike “(5)” and substitute “(4)”.