

**Department of Legislative Services**  
Maryland General Assembly  
2025 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 737 (Delegate Bagnall)  
Health and Government Operations

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**Public Health - Nonopioid Advance Directives**

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This bill authorizes a competent individual to make a nonopioid advance directive stating that the individual refuses the offer or administration of any opioid medication, including during an emergency, where they cannot communicate their preference. The current procedures for making and revoking a written or electronic advance directive apply to a nonopioid advance directive. The Maryland Department of Health (MDH) must develop a model nonopioid advance directive form, publish it on the MDH website, and adopt regulations to implement the bill.

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**Fiscal Summary**

**State Effect:** MDH can create the model form, publish it on the MDH website, and adopt regulations using existing budgeted resources. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** In general, an advance directive allows an adult who has decision making capacity to deal with future health care issues through written instructions, a written appointment of an agent, or an oral statement to a physician or nurse practitioner. The advance directive outlines the individual's instructions regarding the provision of health care or withholding or withdrawing health care. The individual may name an agent to make health care decisions under circumstances stated in the directive, and the authority of surrogate decision makers is specified based on their relationships with the individual. The directive becomes effective when two physicians have certified in writing that the patient is incapable of making an informed decision.

In general, a written or electronic advance directive must be dated, signed by or at the express direction of the individual making the advance directive, and subscribed by two witnesses.

The Maryland Health Care Commission (MHCC) recognizes electronic advance directive services to be authorized for connection to the State-designated health information exchange (HIE) subject to security provisions. An individual may register an advance directive with such a service recognized by MHCC.

Currently, ADVault, Inc. (or MyDirectives.com) is the only web-based repository recognized by MHCC. Under § 19-145.1 of the Health-General Article, MHCC must coordinate the accessibility of electronic advance care planning documents (including advance directives and medical orders for life-sustaining treatment forms). Among other things, MHCC must collaborate with the State-designated HIE to develop an electronic platform through which individuals can upload, save, and update advance care planning documents, and health care providers can access electronic advance care planning documents, as appropriate.

At any time, a declarant can revoke an advance directive by (1) a signed and dated written or electronic document; (2) physical cancellation or destruction; (3) a statement to a health care practitioner; or (4) the execution of a subsequent directive. If a declarant revokes an advance directive by oral statement, the practitioner and a witness must document it in the declarant's medical record.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2025  
caw/jc

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