

HOUSE BILL No. 2855

By Committee on Health and Human Services

2-7

9 AN ACT establishing a health care directives registry; providing for ad-
10 ministration by the secretary of health and environment.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. As used in this act:

14 (a) "Health care provider" means a person licensed to practice med-
15 icine and surgery, an advanced registered nurse practitioner or an adult
16 care home administrator.

17 (b) "Secretary" means the secretary of health and environment.

18 Sec. 2. (a) Within the limits of appropriations therefor, the secretary
19 of health and environment shall establish and maintain a health care di-
20 rectives registry.

21 (b) The registry shall be accessible through a web site maintained by
22 the secretary.

23 (c) The secretary may accept gifts, grants, donations, bequests and
24 other forms of voluntary contributions to support, promote and maintain
25 the registry.

26 Sec. 3. (a) A person may submit to the secretary of health and en-
27 vironment, in a form prescribed by the secretary, the following documents
28 and any revocations of these documents for registration:

29 (1) A durable power of attorney for health care decisions.

30 (2) A declaration made under K.S.A. 65-28,101 et seq., and amend-
31 ments thereto.

32 (b) The person who submits a document for registration pursuant to
33 this section shall provide a return address.

34 (c) Documents submitted pursuant to this section shall be notarized
35 or witnessed as prescribed by this act.

36 Sec. 4. (a) Failure to register a document with the secretary of health
37 and environment pursuant to this act does not affect the validity of a
38 health care directive.

39 (b) Failure to notify the secretary of the revocation of a document
40 filed pursuant to this act does not affect the validity of a revocation that
41 otherwise meets the requirements for a revocation of such document.

42 Sec. 5. (a) On receipt of a completed registration form, the secretary
43 of health and environment shall create a digital reproduction of the form,

1 enter the reproduced form into the health care directives registry data-
2 base and assign each registration a unique file number and password.

3 (b) The secretary is not required to review a document to ensure that
4 it complies with the particular statutory requirements applicable to the
5 document.

6 (c) After entering the reproduced document into the registry data-
7 base, the secretary shall return the original document to the person who
8 submitted the document and provide that person with a printed record
9 of the information entered into the database under the file number and
10 a wallet size card that contains the document's file number and a
11 password.

12 (d) The person who submitted the document shall review the printed
13 record. If the information is accurate, the person shall check the box
14 marked "no corrections required" and sign and return the printed record
15 to the office of the secretary.

16 (e) If the person who submitted the document determines that the
17 printed record is inaccurate, the person shall correct the information and
18 sign and return the corrected printed record to the secretary. On receipt
19 of a corrected printed record, the secretary shall make the proper cor-
20 rections and send a corrected printed record to the person who submitted
21 the document. If the information is accurate, the person shall check the
22 box marked "no corrections required" and sign and return the printed
23 record to the office of the secretary.

24 (f) The secretary shall activate the entry into the health care directives
25 registry database only after receiving a printed record marked "no cor-
26 rections required."

27 (g) The secretary shall delete a document filed with the registry pur-
28 suant to this section when the secretary receives a revocation of a docu-
29 ment along with the document's file number and password.

30 (h) The entry of a document pursuant to this act does not:

31 (1) Affect the validity of the document.

32 (2) Relate to the accuracy of information contained in the document.

33 (3) Create a presumption regarding the validity of the document or
34 the accuracy of information contained in the document.

35 (i) The secretary shall purge a document filed with the registry on
36 verification by the registrar of vital statistics of the death of the person
37 who submitted the document. The secretary shall purge the registry of
38 documents pursuant to this subsection at least once every five years. The
39 state registrar of vital statistics shall assist the secretary in order to conduct
40 the document purge required by this subsection.

41 Sec. 6. (a) The registry established pursuant to this act shall be ac-
42 cessible only by entering the file number and password on the internet
43 web site.

1 (b) Registrations, file numbers, passwords and any other information
2 maintained by the secretary of health and environment pursuant to this
3 act are confidential and shall not be disclosed to any person other than
4 the person who submitted the document or the person's personal
5 representative.

6 (c) Notwithstanding subsection (b), a health care provider may access
7 the registry and receive a patient's health care directive document for the
8 provision of health care services by submitting the patient's file number
9 and password.

10 (d) The secretary shall use information contained in the registry only
11 for purposes prescribed in this act.

12 (e) At the request of a person who submitted the document, the sec-
13 retary may transmit the information received regarding the health care
14 directive to the registry system of another jurisdiction as identified by the
15 person.

16 Sec. 7. (a) Except for acts of gross negligence, willful misconduct or
17 intentional wrongdoing, this state is not subject to civil liability for any
18 claims or demands arising out of the administration or operation of the
19 registry established pursuant to this act.

20 (b) This act does not require a health care provider to request from
21 the registry information about whether a patient has executed a health
22 care directive. A health care provider who makes good faith health care
23 decisions in reliance on the provisions of an apparently genuine health
24 care directive received from the registry is immune from criminal and
25 civil liability.

26 (c) This act does not affect the duty of a health care provider to
27 provide information to a patient regarding health care directives pursuant
28 to federal law.

29 Sec. 8. There is hereby established in the state treasury the health
30 care directives registry fund. The secretary of health and environment
31 shall remit all moneys received under this act to the state treasurer at
32 least monthly. Upon receipt of each such remittance the state treasurer
33 shall credit such amount to this fund. All expenditures from such fund
34 shall be made in accordance with appropriation acts upon warrants of the
35 director of accounts and reports issued pursuant to vouchers approved
36 by the secretary of health and environment or a person designated by the
37 secretary.

38 Sec. 9. This act shall take effect and be in force from and after its
39 publication in the statute book.