



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383

Fax: (517) 373-1986

Senate Bill 723 (as enacted)
Sponsor: Senator Jim Marleau
Senate Committee: Health Policy
House Committee: Health Policy

PUBLIC ACT 179 of 2012

Date Completed: 7-30-12

CONTENT**The bill amended the Public Health Code to do the following:**

- **Authorize the Department of Community Health (DCH) to create and maintain a voluntary internet registry of advanced directives, known as the Peace of Mind Registry.**
- **Allow the DCH to contract with a peace of mind registry organization (a certified organ procurement organization) to create and maintain the Registry at the organization's expense.**
- **Require the DCH and the peace of mind registry organization to ensure the privacy and security of Registry information.**
- **Restrict the use of Registry information.**
- **Require the DCH or peace of mind registry organization to report annually to the Legislature on the number of registrations.**
- **Provide immunity from civil liability for a peace of mind organization that contracts with the DCH, and the organization's employees.**

(The bill defines "peace of mind registry" as an internet website containing access to directives as provided under the Code. "Directive" means a document that is registered or filed with the Registry as provided in the Code and that is either of the following:

- A durable power of attorney and designation of patient advocate under the Estates and Protected Individuals Code.
- A signed or authorized record concerning an anatomical gift containing a donor's direction concerning a health care decision for the donor under the Revised Uniform Anatomical Gift Law.)

The DCH may delegate the creation, operation, and maintenance of the Registry by contract to a peace of mind registry organization contingent upon the organization's incurring all of the cost to design, maintain, and operate it. ("Peace of mind registry organization" means an organization certified or recertified by the Secretary of the U.S. Department of Health and Human Services as a qualified organ procurement organization, or its successor organization.)

The bill took effect on June 19, 2012.

Specifically, the bill permits the DCH to create, operate, and maintain the Peace of Mind Registry, which must contain the directives of voluntary registrants who are Michigan residents. The Registry must be created, operated, and maintained as provided in the Code.

A directive may be submittable through the U.S. mail, or through uploaded portable document format (PDF) or another secure electronic format as determined by the DCH. A directive must contain a signature line for the registrant.

The Registry must be accessible to registrants, health care providers, and the DCH by way of a designated user identification and password. It must store all of an individual's directives. The most recently signed directive will supersede any earlier directive.

The Registry also must provide electronic access to stored directives on a continuous basis at no cost to health care providers, and allow providers to transmit directives into their respective electronic medical records. In addition, the Registry must provide electronic storage and access to directives submitted at no cost to the registrant. It must include a unique identifier-searchable database, including the last four digits of an individual's Social Security number and his or her date of birth and address.

The DCH, the Secretary of State, and the Department of Human Services each must provide on its public website information on directives and the Registry, and promote public awareness of the advantages of creating directives and the Registry's availability.

The Registry must maintain a record of each individual who files a directive to be stored, and create and provide forms for the registration and revocation of a directive. The Registry must satisfy these conditions to the DCH's satisfaction.

The DCH and the peace of mind registry organization must ensure the privacy and security of all documents and information submitted to, transmitted from, or stored in the Registry. The Department and any person who gains access to the Registry must comply with all other provisions of the Code and any other State or Federal law establishing privacy and security standards applicable to health or other personal identifying information.

Registry information may not be retrieved or used for any purpose unrelated to decision-making for health care or disposition of human remains. The information may be used, however, for statistical or analytical purposes if the individual's identity is not revealed and all personal identifying information remains confidential.

The DCH or its designee must give both of the following to a person who files a directive to be stored in the Registry:

- A wallet-sized card indicating that the holder has a directive in the Registry.
- An electronic mail message or postcard indicating confirmation of the registration.

By January 31 of each year, the DCH or peace of mind organization, as applicable, must report to the standing committees of the Senate and House of Representatives on health policy on the total number of current and new registrants who submitted directives during the preceding calendar year.

The DCH may promulgate rules to provide for the implementation and administration of the bill's provisions.

A peace of mind registry organization with which the DCH contracts, and its employees, will be immune from civil liability arising from the accuracy or content of the Registry, except in the case of willful negligence or gross negligence.

A directive that is filed with and stored in the Registry may not be considered to be of greater legal weight or validity solely by virtue of that filing and storage.

MCL 333.10301

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill permits the Department of Community Health to implement the "Peace of Mind Registry", and to contract with an organization that will create, maintain, operate, and pay the costs of the Registry. Creating and operating the Registry will lead to indeterminate administrative costs. If an outside organization contracts with the Department to create and operate the registry, then there will be no cost to the State government.

Fiscal Analyst: Steve Angelotti

S1112\S723es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.