

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 723

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 10301.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 10301. (1) THE DEPARTMENT MAY CREATE, OPERATE, AND
2 MAINTAIN THE PEACE OF MIND REGISTRY, WHICH SHALL CONTAIN THE
3 DIRECTIVES OF VOLUNTARY REGISTRANTS WHO ARE RESIDENTS OF THIS
4 STATE. THE PEACE OF MIND REGISTRY SHALL BE CREATED, OPERATED, AND
5 MAINTAINED AS PROVIDED IN THIS ACT.

6 (2) THE DEPARTMENT MAY BY CONTRACT DELEGATE THE CREATION,
7 OPERATION, AND MAINTENANCE OF A PEACE OF MIND REGISTRY TO A PEACE
8 OF MIND REGISTRY ORGANIZATION CONTINGENT UPON THE PEACE OF MIND
9 REGISTRY ORGANIZATION INCURRING ALL OF THE COST RELATED TO DESIGN,
10 MAINTAIN, AND OPERATE THE REGISTRY.

(3) BOTH OF THE FOLLOWING CONDITIONS APPLY TO A DIRECTIVE:

(A) A DIRECTIVE MAY BE SUBMITTABLE THROUGH THE UNITED STATES MAIL, OR THROUGH UPLOADED PORTABLE DOCUMENT FORMAT (PDF) OR ANOTHER SECURE ELECTRONIC FORMAT AS DETERMINED BY THE DEPARTMENT.

(B) A DIRECTIVE SHALL CONTAIN A SIGNATURE LINE FOR THE REGISTRANT.

(4) THE PEACE OF MIND REGISTRY SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

(A) BE ACCESSIBLE TO REGISTRANTS, HEALTH CARE PROVIDERS, AND THE DEPARTMENT BY WAY OF A DESIGNATED USER IDENTIFICATION AND PASSWORD.

(B) STORE ALL AN INDIVIDUAL'S DIRECTIVE. HOWEVER, THE MOST RECENTLY SIGNED DIRECTIVE SUPERSEDES ANY EARLIER DIRECTIVE.

(C) PROVIDE ELECTRONIC ACCESS TO STORED DIRECTIVES ON A CONTINUOUS BASIS AT NO COST TO THE HEALTH CARE PROVIDERS AND ALLOW HEALTH CARE PROVIDERS TO TRANSMIT DIRECTIVES INTO THEIR RESPECTIVE ELECTRONIC MEDICAL RECORDS.

(D) PROVIDE ELECTRONIC STORAGE AND ACCESS TO DIRECTIVES SUBMITTED AT NO COST TO THE REGISTRANT.

(E) INCLUDE A UNIQUE IDENTIFIER-SEARCHABLE DATABASE, INCLUDING, BUT NOT LIMITED TO, THE LAST 4 DIGITS OF AN INDIVIDUAL'S SOCIAL SECURITY NUMBER AND THE INDIVIDUAL'S DATE OF BIRTH AND ADDRESS.

(5) THE DEPARTMENT, THE SECRETARY OF STATE, AND THE DEPARTMENT OF HUMAN SERVICES SHALL EACH PROVIDE ON ITS PUBLIC WEBSITE INFORMATION ON DIRECTIVES AND THE PEACE OF MIND REGISTRY. THE DEPARTMENT, THE SECRETARY OF STATE, AND THE DEPARTMENT OF HUMAN

1 SERVICES SHALL PROMOTE PUBLIC AWARENESS OF THE ADVANTAGES OF
2 CREATING DIRECTIVES AND THE AVAILABILITY OF THE REGISTRY.

3 (6) THE PEACE OF MIND REGISTRY SHALL SATISFY ALL OF THE
4 FOLLOWING CONDITIONS TO THE SATISFACTION OF THE DEPARTMENT:

5 (A) MAINTAIN A RECORD OF EACH INDIVIDUAL WHO FILES A DIRECTIVE
6 TO BE STORED IN THE PEACE OF MIND REGISTRY AND MAKE THE RECORD
7 AVAILABLE TO THE DEPARTMENT.

8 (B) CREATE AND PROVIDE FORMS FOR THE REGISTRATION OF A
9 DIRECTIVE.

10 (C) CREATE AND PROVIDE FORMS FOR THE REVOCATION OF A
11 DIRECTIVE.

12 (7) THE DEPARTMENT AND THE PEACE OF MIND REGISTRY ORGANIZATION
13 SHALL ENSURE THE PRIVACY AND SECURITY OF ALL DOCUMENTS AND
14 INFORMATION SUBMITTED TO, TRANSMITTED FROM, OR STORED IN THE PEACE
15 OF MIND REGISTRY. THE DEPARTMENT AND ANY PERSON WHO ACCESSES THE
16 PEACE OF MIND REGISTRY SHALL COMPLY WITH ALL OTHER PROVISIONS OF
17 THIS ACT AND ANY OTHER LAW OF THIS STATE OR FEDERAL LAW
18 ESTABLISHING PRIVACY AND SECURITY STANDARDS APPLICABLE TO HEALTH OR
19 OTHER PERSONAL IDENTIFYING INFORMATION.

20 (8) INFORMATION IN THE PEACE OF MIND REGISTRY SHALL NOT BE
21 ACCESSED OR USED FOR ANY PURPOSE UNRELATED TO DECISION MAKING FOR
22 HEALTH CARE OR DISPOSITION OF HUMAN REMAINS, EXCEPT THAT THE
23 INFORMATION MAY BE USED SOLELY BY THE DEPARTMENT OR ITS DESIGNEE
24 FOR STATISTICAL OR ANALYTICAL PURPOSES IF THE INDIVIDUAL'S IDENTITY
25 IS NOT REVEALED AND ALL PERSONAL IDENTIFYING INFORMATION REMAINS
26 CONFIDENTIAL.

27 (9) THE DEPARTMENT OR ITS DESIGNEE SHALL PROVIDE BOTH OF THE

1 FOLLOWING TO AN INDIVIDUAL WHO FILES A DIRECTIVE WITH THE PEACE OF
2 MIND REGISTRY TO BE STORED IN THE REGISTRY:

3 (A) A WALLET-SIZED CARD INDICATING THAT THE HOLDER HAS A
4 DIRECTIVE IN THE REGISTRY.

5 (B) AN ELECTRONIC MAIL MESSAGE OR POSTCARD INDICATING
6 CONFIRMATION OF THE REGISTRATION OF A DIRECTIVE.

7 (10) BY JANUARY 31 OF EACH YEAR, THE DEPARTMENT OR PEACE OF
8 MIND ORGANIZATION, AS APPLICABLE, SHALL REPORT TO THE STANDING
9 COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE ON HEALTH
10 POLICY STATING THE TOTAL NUMBER OF CURRENT AND NEW REGISTRANTS WHO
11 HAVE SUBMITTED DIRECTIVES DURING THE PRECEDING CALENDAR YEAR.

12 (11) THE DEPARTMENT MAY PROMULGATE RULES UNDER THE
13 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
14 24.328, TO PROVIDE FOR THE IMPLEMENTATION AND ADMINISTRATION OF
15 THIS SECTION.

16 (12) A PEACE OF MIND REGISTRY ORGANIZATION, WITH WHICH THE
17 DEPARTMENT HAS CONTRACTED UNDER SUBSECTION (2), AND ITS EMPLOYEES
18 ARE IMMUNE FROM CIVIL LIABILITY ARISING FROM THE ACCURACY OR
19 CONTENT OF THE REGISTRY, EXCEPT IN THE CASE OF WILLFUL NEGLIGENCE
20 OR GROSS NEGLIGENCE.

21 (13) A DIRECTIVE THAT WAS FILED WITH AND STORED IN THE PEACE
22 OF MIND REGISTRY SHALL NOT BE CONSIDERED TO BE OF GREATER LEGAL
23 WEIGHT OR VALIDITY SOLELY BY VIRTUE OF THAT FILING AND STORAGE.

24 (14) AS USED IN THIS SECTION:

25 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF COMMUNITY HEALTH.

26 (B) "DIRECTIVE" MEANS A DOCUMENT THAT IS REGISTERED OR FILED
27 WITH THE PEACE OF MIND REGISTRY AS PROVIDED IN THIS ACT AND THAT IS

Senate Bill No. 723 (H-2) as amended May 31, 2012

1 EITHER OF THE FOLLOWING:

2 (i) A DURABLE POWER OF ATTORNEY AND DESIGNATION OF PATIENT
3 ADVOCATE UNDER PART 5 OF ARTICLE V OF THE ESTATES AND PROTECTED
4 INDIVIDUALS CODE, 1998 PA 386, MCL 700.5501 TO 700.5520.

5 (ii) A SIGNED OR AUTHORIZED RECORD CONCERNING AN ANATOMICAL
6 GIFT CONTAINING A DONOR'S DIRECTION CONCERNING A HEALTH CARE
7 DECISION FOR THE DONOR UNDER THE REVISED UNIFORM ANATOMICAL GIFT
8 LAW, SECTIONS 10101 TO 10123.

9 (C) "HEALTH CARE PROVIDER" MEANS ANY OF THE FOLLOWING:

10 (i) A HEALTH PROFESSIONAL LICENSED, REGISTERED, OR OTHERWISE
11 AUTHORIZED TO ENGAGE IN A HEALTH PROFESSION UNDER PARTS 170, 172, [OR
12 175, OR A LAW OF ANOTHER STATE SUBSTANTIALLY SIMILAR TO PART 170, 172,
13 OR 175.]

14 (ii) A HEALTH FACILITY OR AGENCY LICENSED OR CERTIFIED UNDER
15 ARTICLE 17 [OR A LAW OF ANOTHER STATE SUBSTANTIALLY SIMILAR TO ARTICLE
16 17].

17 (D) "PEACE OF MIND REGISTRY" OR "REGISTRY" MEANS AN INTERNET
18 WEBSITE CONTAINING ACCESS TO DIRECTIVES AS PROVIDED UNDER THIS ACT.

19 (E) "PEACE OF MIND REGISTRY ORGANIZATION" MEANS AN
20 ORGANIZATION CERTIFIED OR RECERTIFIED BY THE SECRETARY OF THE
21 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS A
22 QUALIFIED ORGAN PROCUREMENT ORGANIZATION UNDER 42 USC 273(B), OR
23 ITS SUCCESSOR ORGANIZATION.

24 (F) "SIGN" MEANS THAT, WITH THE PRESENT INTENT TO AUTHENTICATE
25 OR ADOPT A RECORD, AN INDIVIDUAL DOES EITHER OF THE FOLLOWING:

26 (i) EXECUTES OR ADOPTS A TANGIBLE SYMBOL.

(ii) ATTACHES TO OR LOGICALLY ASSOCIATES WITH THE RECORD AN
ELECTRONIC SYMBOL, SOUND, OR PROCESS.