

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Marleau, Robertson, Green, Emmons, Hune, Warren, Bieda, Schuitmaker, Gleason, Moolenaar, Smith, Booher, Hansen, Casperson, Pappageorge, Walker, Jansen, Proos, Hildenbrand, Pavlov, Gregory, Kowall, Anderson, Nofs, Kahn, Meekhof, Jones, Richardville, Colbeck, Caswell, Rocca, Hunter, Brandenburg and Hopgood

ENROLLED SENATE BILL No. 723

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 10301.

The People of the State of Michigan enact:

Sec. 10301. (1) The department may create, operate, and maintain the peace of mind registry, which shall contain the directives of voluntary registrants who are residents of this state. The peace of mind registry shall be created, operated, and maintained as provided in this act.

(2) The department may by contract delegate the creation, operation, and maintenance of a peace of mind registry to a peace of mind registry organization contingent upon the peace of mind registry organization incurring all of the cost related to design, 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 services shall promote public awareness of the advantages of creating directives and the availability of the registry.

(6) The peace of mind registry shall satisfy all of the following conditions to the satisfaction of the department:

(a) Maintain a record of each individual who files a directive to be stored in the peace of mind registry and make the record available to the department.

(b) Create and provide forms for the registration of a directive.

(c) Create and provide forms for the revocation of a directive.

(7) The department and the peace of mind registry organization shall ensure the privacy and security of all documents and information submitted to, transmitted from, or stored in the peace of mind registry. The department and any person who accesses the peace of mind registry shall comply with all other provisions of this act and any other law of this state or federal law establishing privacy and security standards applicable to health or other personal identifying information.

(8) Information in the peace of mind registry shall not be accessed or used for any purpose unrelated to decision making for health care or disposition of human remains, except that the information may be used solely by the department or its designee for statistical or analytical purposes if the individual's identity is not revealed and all personal identifying information remains confidential.

(9) The department or its designee shall provide both of the following to an individual who files a directive with the peace of mind registry to be stored in the registry:

(a) A wallet-sized card indicating that the holder has a directive in the registry.

(b) An electronic mail message or postcard indicating confirmation of the registration of a directive.

(10) By January 31 of each year, the department or peace of mind organization, as applicable, shall report to the standing committees of the house of representatives and senate on health policy stating the total number of current and new registrants who have submitted directives during the preceding calendar year.

(11) The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the implementation and administration of this section.

(12) A peace of mind registry organization, with which the department has contracted under subsection (2), and its employees are immune from civil liability arising from the accuracy or content of the registry, except in the case of willful negligence or gross negligence.

(13) A directive that was filed with and stored in the peace of mind registry shall not be considered to be of greater legal weight or validity solely by virtue of that filing and storage.

(14) As used in this section:

(a) "Department" means the department of community health.

(b) "Directive" means a document that is registered or filed with the peace of mind registry as provided in this act and that is either of the following:

(i) A durable power of attorney and designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5501 to 700.5520.

(ii) 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, sections 10101 to 10123.

(c) "Health care provider" means any of the following:

(i) A health professional licensed, registered, or otherwise authorized to engage in a health profession under part 170, 172, or 175, or a law of another state substantially similar to part 170, 172, or 175.

(ii) A health facility or agency licensed or certified under article 17 or a law of another state substantially similar to article 17.

(d) "Peace of mind registry" or "registry" means an internet website containing access to directives as provided under this act.

(e) "Peace of mind registry organization" means an organization certified or recertified by the secretary of the United States department of health and human services as a qualified organ procurement organization under 42 USC 273(b), or its successor organization.

(f) "Sign" means that, with the present intent to authenticate or adopt a record, an individual does either of the following:

(i) Executes or adopts a tangible symbol.

(ii) Attaches to or logically associates with the record an electronic symbol, sound, or process.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor