

HOUSE BILL REPORT

HB 2652

As Reported by House Committee On:

Transportation
Appropriations

Title: An act relating to improving access to health care declarations.

Brief Description: Concerning the maintenance and disclosure of health care declarations.

Sponsors: Representatives Cody, Schmick, Clibborn and Frame.

Brief History:

Committee Activity:

Transportation: 1/25/16, 2/3/16 [DPS];

Appropriations: 2/8/16, 2/9/16 [DP2S(w/o sub TR)].

Brief Summary of Second Substitute Bill

- Requires the Department of Licensing to issue driver's licenses and identicards, if the applicant so requests, with a symbol or abbreviation that denotes the presence of a health care declaration and a code that, if the declaration is stored in the statewide registry, allows health care providers access to the cardholder's declaration in the registry.
- Implements the changes to driver's licenses and identicards beginning July 1, 2017.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Bergquist, Gregerson, Kochmar, McBride, Moeller, Morris, Riccelli, Rossetti, Sells and Tarleton.

Minority Report: Do not pass. Signed by 9 members: Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Hayes, Hickel, Rodne, Shea, Stambaugh and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative Pike.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Mark Matteson (786-7145).

Background:

Health Care Declaration Registry.

The Department of Health (DOH) established a statewide health care declarations registry in 2006 pursuant to Legislative direction. Until June 30, 2011, the DOH accepted new declarations from individuals who wanted their declarations to be stored in the registry. Eligible declarations included an advance health care directive, a durable power of attorney for health care, a mental health advance directive, and a Physician Orders for Life-Sustaining Treatment (POLST) form. In general, an advance directive relating to health or mental health is a document in which a person makes a declaration of instructions, or appoints another to make decisions on behalf of the person, regarding the person's health or mental health treatment and is often pertinent to end-of-life treatment situations. A completed POLST form is similar to many advance directives, allowing individuals to summarize preferences regarding end-of-life treatment and to communicate those preferences to emergency medical personnel and staff in hospitals or residential care settings. The registry is to be available to health care providers at all times.

While the DOH is still statutorily required to maintain the health care declarations registry, most of the maintenance funding was eliminated in the 2011-13 biennial budget. Since July 1, 2011, the DOH has not accepted new declarations. The DOH contracted out the management of the registry for those individuals who made declarations before July 1, 2011.

The Robert Bree Collaborative.

The Robert Bree Collaborative (Collaborative) was established in 2011 to provide a forum to allow stakeholders to work together to improve the quality, cost-effectiveness, and outcomes of health care in Washington. In 2014 the Collaborative formed an end-of-life care workgroup to address end-of-life issues. Among other things, the workgroup acknowledged that the DOH health care declarations registry was underutilized. The workgroup recommended that Washington contract to join an existing registry in use by another state and promote the registry to health systems, providers, and Washington residents to facilitate use. In addition, the workgroup recommended that driver's license cards and identicards be modified to allow the addition of an indicator showing the presence of an advance directive and the addition of a quick response (QR) code to permit direct access to the registry.

Driver's Licenses and Identicards.

The Department of Licensing (DOL) issues driver's licenses and identicards to residents of Washington. To obtain a license or identicard, a person must apply to the DOL and pay the required fee of \$54. In the application, the person must provide his or her name, date of birth, sex, Washington residence address, description, driving licensing history, and any other information required by the DOL. Thereafter, the DOL will issue a license or identicard which provides certain information about the holder, such as his or her name, date of birth, physical description, anatomical gift statement, Washington residence address, and signature.

Summary of Substitute Bill:

The option to the DOH to coordinate and manage the Washington health care declarations registry internally is eliminated, requiring the agency to contract with a private organization or another state. If contracting with another state, the other state must operate a similar registry. By December 1, 2018, the DOH must report to the House and Senate committees on health care. The report must include the identity and qualifications of the entity selected to manage the registry; the number of registry participants; the number of health care declarations submitted, by type; the number of health care declarations revoked from the registry; the number of health care providers and facilities, by type, that have been provided access to the registry; and the actual costs of operating the registry.

Beginning July 1, 2017, an applicant for a new driver's license or identicard may request that his or her application designate whether he or she has executed a health care declaration and, if so, whether it is stored in the statewide health care declarations registry. When issuing a driver's license or identicard, the DOL must include on the card a symbol or abbreviation that denotes the existence of a health care declaration and, if the declaration is stored in the statewide registry, a code that, when scanned, provides an authorized health care provider access to the person's declaration in the registry.

The DOL must post several signs in each of its licensing services offices that clearly indicate that an applicant for a driver's license or identicard may request that the license or identicard denote the existence of a health care declaration. The DOL must modify its online and mail-in driver's license and identicard renewal forms to allow an applicant to request that the license or identicard denote the existence of a health care declaration.

Substitute Bill Compared to Original Bill:

The substitute bill removes the requirement that the DOL application ask a driver's license or identicard applicant whether the applicant has executed a health care declaration. The substitute bill allows instead an applicant to ask that his or her application designate whether he or she has executed a health care declaration. It requires the DOL to post signs in its licensing service offices that notify an applicant that he or she can request a symbol on his or her driver's license or identicard that denotes a health care declaration. The substitute bill requires the DOL to modify its online and mail-in driver's license and identicard renewal forms to allow an applicant to request that the driver's license or identicard denote the existence of a health care declaration.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The statewide health care registry and the use of health care declarations is something we would like to see advertised more. We want to encourage people to have end-of-life discussions with their family before a person ends up in the hospital so that they know what the person's wishes are. This bill presents a way for emergency medical technicians (EMTs) and other medical personnel to quickly access declarations, which can otherwise be difficult for medical personnel to obtain.

The Washington State Hospice and Palliative Care and the Home Care Association of Washington are in support of the bill. This bill reestablishes the registry at the DOH. The substitute bill would have the existence of a health care declaration denoted on a driver's license or identicard, which is more convenient than at present. Currently, persons wanting to alert medical personnel must carry a POLST form with them when they go places, which can be a hassle. The bill implements an important recommendation from the Bree Collaborative. The end-of-life care that many people receive is not aligned with their wishes. Advance care planning with families and medical providers can increase the probability that a person will receive the sort of care that he or she wants if incapacitated.

(Opposed) None.

(Other) This bill implements some of the Bree Collaborative's recommendations. A Physician Orders for Life-Sustaining Treatment (POLST) form is a medical order that allows patients to indicate whether they want cardiopulmonary resuscitation (CPR), to be put on a breathing machine, to be brought back to home, or other choices regarding medical treatment if a person is incapacitated. The form translates an advance health care directive into terms that can be followed by EMTs and other medical personnel. It is typically utilized by those that are very sick and whose chances of resuming a normal life at home appear unlikely. First responders must respond to a medical emergency unless a POLST form is available and orders otherwise.

The State of Oregon has a robust health care declaration registry with over 120,000 POLST records on file. They add and make changes to about 4,000 records each month. When the Washington registry was implemented, it required a personal identification number (PIN) that made it virtually inaccessible to first responders or family members that did not know the PIN. The Washington State POLST Task Force is concerned that some of the confidentiality requirements in the bill may still make it difficult to access registry information. The Emergency Department Information Exchange is a possible registry venue.

The Washington Ambulance Association (Association) is concerned that there may be confusion about how to implement this. The Association members are used to going into facilities and easily spotting the green POLST form. While they can understand not wanting to carry the form around to places, most people who have POLST forms are sedentary anyway. The Association members are a bit leery of trying to hunt down a piece of information that might not be easily located. When the Association members walk in the door, and need to administer treatment, they do so immediately.

Persons Testifying: (In support) Representative Cody, prime sponsor; and Leslie Emerick, Washington State Hospice and Palliative Care and Home Care Association of Washington.

(Other) Kate White Tudor, Washington State POLST Task Force; and Bob Berschauer, Washington Ambulance Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Transportation. Signed by 26 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Cody, Fitzgibbon, Haler, Hansen, Harris, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, Magendanz, Pettigrew, Robinson, Sawyer, Schmick, Senn, Springer, Stokesbary, Sullivan, Tharinger and Walkinshaw.

Minority Report: Do not pass. Signed by 6 members: Representatives Buys, Condotta, Dent, MacEwen, Taylor and Van Werven.

Staff: James Mackison (786-7104).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Transportation:

The Appropriations Committee removed the section that amends the Department of Health's statutory obligation to maintain a healthcare declarations registry.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 6, 2016.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

(Other) A Physicians Order for Life Sustaining Treatment (POLST) is a medical order that has been in use for more than 16 years with support from the Department of Health (DOH). The discontinued declarations registry was cumbersome and had only 2,000 registrants. Washington should look to other states that have more robust POLST registries as models, including Oregon, California, New York, and Utah. The estimated number of registrants for a reinstated registry from the DOH is low. Oregon has 120,000 registrants for a POLST-only registry and processes 4,000 forms a month. This is a more complicated issue than just deciding if you want life support or not. There is promise in the idea of a registry

and support for a code on driver's licenses, but an additional study is needed. An amendment has been shared with the bill sponsor to have a task force study other states' models.

Persons Testifying: Susie Tracy, Washington State Medical Association; and Kate White Tudor, Washington State Physician Order for Life Sustaining Treatment Task Force.

Persons Signed In To Testify But Not Testifying: None.