

FINAL BILL REPORT

2SHB 2342

C 108 L 06

Synopsis as Enacted

Brief Description: Establishing a health care declarations registry.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Moeller, Appleton, Nixon, Hunt, Curtis, Lantz, Morrell, Springer, Wallace, Fromhold, Kagi, Roberts, Cody, Ericks, Green and Ormsby).

House Committee on Health Care

House Committee on Appropriations

Senate Committee on Health & Long-Term Care

Senate Committee on Ways & Means

Background:

There are several types of documents that individuals may use to declare their preferences for health care and mental health decisions in the event that they become incapacitated.

- An advance directive is a document that expresses an individual's preferences regarding the withholding or withdrawal of life-sustaining treatment if he or she is in a terminal condition or permanent unconscious state.
- A mental health advance directive is a document that either provides instructions or declares an individual's preferences regarding his or her mental health treatment in the event of incapacitation. These documents may also appoint another person to make decisions regarding mental health treatment on the individual's behalf in the event of incapacitation.
- A durable power of attorney for health care is a document that appoints an agent to provide informed consent for health care decisions on behalf of another individual.
- The Physician Orders for Life-Sustaining Treatment (POLST) form is a standardized form that is signed by an individual's physician or advanced registered nurse practitioner (ARNP) to instruct emergency medical personnel or staff in residential care settings on the type of care that an individual wishes to have in end of life situations.

In order to be valid, an advance directive or a mental health advance directive must be signed by an individual who is at least 18 years old and not incapacitated, there must be at least two neutral witnesses present, and it must be dated. Advance directives and mental health advance directives may be revoked according to statutorily prescribed procedures.

If a patient has an advance directive or a mental health advance directive, health care facilities must make these documents a part of the patient's medical records. If a health care facility or provider is unable or unwilling to comply with all or any part of an advance directive or a

mental health advance directive, the patient, or his or her personal representative, must be promptly notified.

Summary:

The Department of Health (Department) is directed to establish and maintain a statewide registry of health care declarations submitted by Washington residents on a secure web site. The Department may contract with another entity to perform these registry functions. The health care declarations that may be submitted include advance directives, durable powers of attorney for health care, mental health advance directives, and forms establishing physician orders for emergency medical service personnel.

Residents may either send the health care declarations to the Department to place in the registry or they may submit them directly to the registry in a digital format. The Department is not responsible for determining whether or not the health care declarations have been properly executed.

Individuals must have access to their health care declarations and the ability to revoke them at all times. Personal representatives, health care facilities, attending physicians, ARNPs, and health care providers acting under the direction of a physician or ARNP must have access to the registry at all times.

A health care declaration that is stored in the registry may be revoked by standard statutory methods or according to a method developed by the Department. Revocation of a health care declaration stored in the registry by means of a standard statutory method is valid even if the Department is not notified of the revocation.

Physicians, ARNPs, health care providers acting under the direction of a physician or ARNP, health care facilities and their employees who, in good faith and without negligence, act in reliance on a declaration in the registry, are immune from civil and criminal liability and professional sanctions in specified circumstances. These circumstances include when they provide, do not provide, withdraw, or withhold treatment and: (1) there was no actual knowledge that there was a declaration in the registry; (2) there was no actual knowledge that the declaration had been revoked; (3) the declaration is subsequently determined to have been invalid; or (4) the procedure is in accordance with the declaration that is stored in the registry.

The Department is immune from civil liability for its administration and operation of the registry except in cases of gross negligence, willful misconduct, or intentional wrongdoing.

The stated intent of the act is that the electronic registry improve access to advance directives and mental health advance directives, but not supplant the current system of using these documents. The intent is also stated to be that health care providers consult the registry in all situations where there may be a question about the patient's wishes for periods of incapacity and the existence of a document of the patient's intentions except where it would affect the emergency care of the patient.

The Health Care Declarations Registry Account (Account) is created for the purpose of creating and maintaining the registry and educating the public about the registry. The Account is appropriated and is to be funded through donations and appropriations.

By December 1, 2008, the Department must report to the Legislature on the number of registry participants, number and type of health care declarations submitted, number and type of revocations, number and type of providers and facilities with access to the registry, costs of operating the registry, and donations received for the Account.

Votes on Final Passage:

House	97	1
Senate	47	1

Effective: June 7, 2006