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HOUSE BILL 2166

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State of Washington

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By Representatives Paul and Shavers

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1 AN ACT Relating to increasing access to portable orders for life-  
2 sustaining treatment; and amending RCW 43.70.480 and 70.122.130.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 43.70.480 and 2000 c 70 s 1 are each amended to read  
5 as follows:

6 (1)(a) The department of health shall adopt guidelines and  
7 protocols for how emergency medical personnel shall respond when  
8 summoned to the site of an injury or illness for the treatment of a  
9 person who has signed a written directive or durable power of  
10 attorney requesting that he or she not receive futile emergency  
11 medical treatment.

12 (b) The guidelines shall include the development of a simple form  
13 to record a person's preferences, known as "portable orders for life-  
14 sustaining treatment" that shall be used statewide.

15 (c)(i) In addition to the simple form developed pursuant to (b)  
16 of this subsection, the department shall establish guidelines and  
17 protocols for emergency medical personnel to recognize types of  
18 alternative evidence that a person has executed the portable orders  
19 for life-sustaining treatment form and that the person does not wish  
20 to have resuscitative efforts, including a standardized necklace,  
21 bracelet, physical card, or electronic application-based form.

1       (ii) The department shall adopt standards for the endorsement of  
2 types of alternative evidence of the execution of a portable orders  
3 for life-sustaining treatment form for persons that do not wish to  
4 have resuscitative efforts. The standards must require that the  
5 alternative evidence only be issued upon the presentation of a  
6 properly executed portable orders for life-sustaining treatment form  
7 to the entity producing the alternative evidence. The standards must  
8 require that the alternative evidence include the person's name, the  
9 person's date of birth, and "WA DNR" or "WA Do Not Resuscitate." The  
10 department shall maintain a registry of entities that have received  
11 an endorsement of their types of alternative evidence and that have  
12 committed to reviewing a person's portable orders for life-sustaining  
13 treatment form prior to issuing the alternative evidence.

14       (iii) The department shall inform the public of the types of  
15 alternative evidence that meet the endorsement standards through its  
16 website and informational materials to be made available to relevant  
17 partners in the community. The public information shall identify  
18 entities that are registered as producers of endorsed types of  
19 alternative evidence and contact information for those entities.

20       (2) (a) The department shall establish and maintain a statewide  
21 registry containing the portable orders for life-sustaining treatment  
22 forms received pursuant to (b) of this subsection as submitted by  
23 residents of Washington. The department shall digitally reproduce and  
24 store portable orders for life-sustaining treatment forms in the  
25 registry. The department may establish standards for individuals to  
26 submit digitally reproduced portable orders for life-sustaining  
27 treatment forms directly to the registry, but is not required to  
28 review the portable orders for life-sustaining treatment forms that  
29 it receives to ensure they comply with the applicable statutory and  
30 regulatory requirements. The department may contract with an  
31 organization that meets the standards identified in this section.

32       (b) (i) An individual may submit a portable orders for life-  
33 sustaining treatment form that meets the standards established under  
34 subsection (1) of this section to the department to be digitally  
35 reproduced and stored in the registry.

36       (ii) Failure to submit a portable orders for life-sustaining  
37 treatment form to the department does not affect the validity of the  
38 form.

1 (iii) Failure to notify the department of a valid revocation of a  
2 portable orders for life-sustaining treatment form does not affect  
3 the validity of the revocation.

4 (iv) The entry of a portable orders for life-sustaining treatment  
5 form in the registry under this section does not:

6 (A) Affect the validity of the portable orders for life-  
7 sustaining treatment form;

8 (B) Take the place of any requirements in law necessary to make  
9 the submitted portable orders for life-sustaining treatment form  
10 legal; or

11 (C) Create a presumption regarding the validity of the portable  
12 orders for life-sustaining treatment form.

13 (c) The department shall prescribe a procedure for an individual  
14 to revoke a portable orders for life-sustaining treatment form  
15 contained in the registry.

16 (d) The registry must:

17 (i) Be maintained in a secure database that is accessible through  
18 a website maintained by the department or its contractor;

19 (ii) Send annual electronic messages to individuals that have  
20 submitted portable orders for life-sustaining treatment forms to  
21 request that they review the registry materials to ensure that they  
22 are current;

23 (iii) Provide individuals who have submitted a portable orders  
24 for life-sustaining treatment form with access to their forms and the  
25 ability to revoke their forms at all times; and

26 (iv) Provide the personal representatives of individuals who have  
27 submitted a portable orders for life-sustaining treatment form to the  
28 registry, attending physicians, advanced registered nurse  
29 practitioners, health care providers licensed by a disciplining  
30 authority identified in RCW 18.130.040 who is acting under the  
31 direction of a physician or an advanced registered nurse  
32 practitioner, including a physician's trained advanced emergency  
33 medical technician and paramedic certified under chapter 18.71 RCW  
34 and emergency medical technician certified under chapter 18.73 RCW,  
35 and health care facilities, as defined in this chapter or in chapter  
36 71.32 RCW, access to the registry at all times.

37 (e) In designing the registry and website, the department shall  
38 ensure compliance with state and federal requirements related to  
39 patient confidentiality.

1       (f) The department may accept donations, grants, gifts, or other  
2 forms of voluntary contributions to support activities related to the  
3 creation and maintenance of the registry and statewide public  
4 education campaigns related to the existence of the registry. All  
5 receipts from donations made under this section, and other  
6 contributions and appropriations specifically made for the purposes  
7 of creating and maintaining the registry established under this  
8 section and statewide public education campaigns related to the  
9 existence of the registry, shall be deposited into the general fund.  
10 These moneys in the general fund may be spent only after  
11 appropriation.

12       (g) The department may adopt rules as necessary to implement this  
13 section.

14       **Sec. 2.** RCW 70.122.130 and 2016 c 209 s 406 are each amended to  
15 read as follows:

16       (1) The department of health shall establish and maintain a  
17 statewide health care declarations registry containing the health  
18 care declarations identified in subsection (2) of this section as  
19 submitted by residents of Washington. The department shall digitally  
20 reproduce and store health care declarations in the registry. The  
21 department may establish standards for individuals to submit  
22 digitally reproduced health care declarations directly to the  
23 registry, but is not required to review the health care declarations  
24 that it receives to ensure they comply with the particular statutory  
25 requirements applicable to the document. The department may contract  
26 with an organization that meets the standards identified in this  
27 section.

28       (2)(a) An individual may submit any of the following health care  
29 declarations to the department of health to be digitally reproduced  
30 and stored in the registry:

31       (i) A directive, as defined by this chapter;

32       (ii) A durable power of attorney for health care, as authorized  
33 in chapter 11.125 RCW; or

34       (iii) A mental health advance directive, as defined by chapter  
35 71.32 RCW (~~;~~ ~~or~~

36       ~~(iv) A form adopted pursuant to the department of health's~~  
37 ~~authority in RCW 43.70.480)).~~

38       (b) Failure to submit a health care declaration to the department  
39 of health does not affect the validity of the declaration.

1 (c) Failure to notify the department of health of a valid  
2 revocation of a health care declaration does not affect the validity  
3 of the revocation.

4 (d) The entry of a health care directive in the registry under  
5 this section does not:

6 (i) Affect the validity of the document;

7 (ii) Take the place of any requirements in law necessary to make  
8 the submitted document legal; or

9 (iii) Create a presumption regarding the validity of the  
10 document.

11 (3) The department of health shall prescribe a procedure for an  
12 individual to revoke a health care declaration contained in the  
13 registry.

14 (4) The registry must:

15 (a) Be maintained in a secure database that is accessible through  
16 a website maintained by the department of health;

17 (b) Send annual electronic messages to individuals that have  
18 submitted health care declarations to request that they review the  
19 registry materials to ensure that it is current;

20 (c) Provide individuals who have submitted one or more health  
21 care declarations with access to their documents and the ability to  
22 revoke their documents at all times; and

23 (d) Provide the personal representatives of individuals who have  
24 submitted one or more health care declarations to the registry,  
25 attending physicians, advanced registered nurse practitioners, health  
26 care providers licensed by a disciplining authority identified in RCW  
27 18.130.040 who is acting under the direction of a physician or an  
28 advanced registered nurse practitioner, and health care facilities,  
29 as defined in this chapter or in chapter 71.32 RCW, access to the  
30 registry at all times.

31 (5) In designing the registry and website, the department of  
32 health shall ensure compliance with state and federal requirements  
33 related to patient confidentiality.

34 (6) The department shall provide information to health care  
35 providers and health care facilities on the registry website  
36 regarding the different federal and Washington state requirements to  
37 ascertain and document whether a patient has an advance directive.

38 (7) The department of health may accept donations, grants, gifts,  
39 or other forms of voluntary contributions to support activities  
40 related to the creation and maintenance of the health care

1 declarations registry and statewide public education campaigns  
2 related to the existence of the registry. All receipts from donations  
3 made under this section, and other contributions and appropriations  
4 specifically made for the purposes of creating and maintaining the  
5 registry established under this section and statewide public  
6 education campaigns related to the existence of the registry, shall  
7 be deposited into the general fund. These moneys in the general fund  
8 may be spent only after appropriation.

9 (8) The department of health may adopt rules as necessary to  
10 implement chapter 108, Laws of 2006.

11 (9) By December 1, 2008, the department shall report to the house  
12 and senate committees on health care the following information:

13 (a) Number of participants in the registry;

14 (b) Number of health care declarations submitted by type of  
15 declaration as defined in this section;

16 (c) Number of health care declarations revoked and the method of  
17 revocation;

18 (d) Number of providers and facilities, by type, that have been  
19 provided access to the registry;

20 (e) Actual costs of operation of the registry.

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