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SECOND SUBSTITUTE HOUSE BILL 2166

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State of Washington

68th Legislature

2024 Regular Session

By House Appropriations (originally sponsored by Representatives Paul and Shavers)

READ FIRST TIME 02/05/24.

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

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

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

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

13 (b) The guidelines shall include the development of a simple form  
14 to record a person's preferences, known as "portable orders for life-  
15 sustaining treatment" that shall be used statewide. The form must  
16 include an option for the individual to opt out of their provider  
17 submitting their form to the registry created by this section.

18 (c)(i) In addition to the simple form developed pursuant to (b)  
19 of this subsection, the department shall establish guidelines and  
20 protocols for emergency medical personnel to recognize types of  
21 alternative evidence that a person has executed the portable orders

1 for life-sustaining treatment form and that the person does not wish  
2 to have resuscitative efforts, including a standardized necklace,  
3 bracelet, physical card, or electronic application-based form.

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

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

23 (2)(a) The department shall establish and maintain a statewide  
24 registry containing the portable orders for life-sustaining treatment  
25 forms received pursuant to (b) of this subsection as submitted by  
26 health care providers and residents of Washington. The department  
27 shall digitally reproduce and store portable orders for life-  
28 sustaining treatment forms in the registry. The department shall  
29 establish standards for physicians, physician assistants, advanced  
30 registered nurse practitioners, their agents and employees,  
31 individuals, and personal representatives to submit digitally  
32 reproduced portable orders for life-sustaining treatment forms  
33 directly to the registry. The department shall collaborate with  
34 health care providers and individuals to establish best practices for  
35 health care providers that sign portable orders for life-sustaining  
36 treatment forms to discuss with individuals if the form should be  
37 submitted to the registry and how the form will be submitted. The  
38 department shall review the portable orders for life-sustaining  
39 treatment forms that it receives to ensure they comply with the  
40 applicable statutory and regulatory requirements. The department may

1 contract with an organization that meets the standards identified in  
2 this section.

3 (b) (i) A physician, physician assistant, or advanced registered  
4 nurse practitioner that signs a completed portable orders for life-  
5 sustaining treatment form, or their agent or employee, may submit the  
6 form to the department or registry consistent with the standards  
7 adopted by the department under this section on the individual's  
8 behalf, unless the individual has opted out of submitting the form to  
9 the registry.

10 (ii) An individual or an individual's personal representative may  
11 submit a portable orders for life-sustaining treatment form that  
12 meets the standards established under subsection (1) of this section  
13 to the department to be digitally reproduced and stored in the  
14 registry.

15 (iii) Failure to submit a portable orders for life-sustaining  
16 treatment form to the department does not affect the validity of the  
17 form.

18 (iv) Failure to notify the department of a valid revocation of a  
19 portable orders for life-sustaining treatment form does not affect  
20 the validity of the revocation.

21 (v) The entry of a portable orders for life-sustaining treatment  
22 form in the registry under this section does not:

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

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

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

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

33 (d) The registry must:

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

36 (ii) Provide each individual that has a portable orders for life-  
37 sustaining treatment form submitted to the registry with a  
38 registration number;

39 (iii) Send annual notices by mail or electronic message to  
40 individuals that have a portable orders for life-sustaining treatment

1 form in the registry to request that they review the registry  
2 materials to ensure that they are current;

3 (iv) Provide individuals that have a portable orders for life-  
4 sustaining treatment form in the registry with access to their forms  
5 and the ability to revoke their forms at all times; and

6 (v) Provide the personal representatives of individuals that have  
7 a portable orders for life-sustaining treatment form in the registry,  
8 attending physicians, physician assistants, advanced registered nurse  
9 practitioners, health care providers licensed by a disciplining  
10 authority identified in RCW 18.130.040 who is acting under the  
11 direction of a physician, physician assistant, or an advanced  
12 registered nurse practitioner, including a physician's trained  
13 advanced emergency medical technician and paramedic certified under  
14 chapter 18.71 RCW and emergency medical technician certified under  
15 chapter 18.73 RCW, and health care facilities, as defined in this  
16 chapter or in chapter 71.32 RCW, access to the registry at all times.

17 (e) In designing the registry and website, the department shall  
18 ensure compliance with state and federal requirements related to  
19 patient confidentiality.

20 (f) The department may accept donations, grants, gifts, or other  
21 forms of voluntary contributions to support activities related to the  
22 creation and maintenance of the registry and statewide public  
23 education campaigns related to the existence of the registry. All  
24 receipts from donations made under this section, and other  
25 contributions and appropriations specifically made for the purposes  
26 of creating and maintaining the registry established under this  
27 section and statewide public education campaigns related to the  
28 existence of the registry, shall be deposited into the general fund.  
29 These moneys in the general fund may be spent only after  
30 appropriation.

31 (g) The department may adopt rules as necessary to implement this  
32 section.

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

35 (1) The department of health shall establish and maintain a  
36 statewide health care declarations registry containing the health  
37 care declarations identified in subsection (2) of this section as  
38 submitted by residents of Washington. The department shall digitally  
39 reproduce and store health care declarations in the registry. The

1 department may establish standards for individuals to submit  
2 digitally reproduced health care declarations directly to the  
3 registry, but is not required to review the health care declarations  
4 that it receives to ensure they comply with the particular statutory  
5 requirements applicable to the document. The department may contract  
6 with an organization that meets the standards identified in this  
7 section.

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

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

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

14 (iii) A mental health advance directive, as defined by chapter  
15 71.32 RCW (~~;~~ ~~or~~

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

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

20 (c) Failure to notify the department of health of a valid  
21 revocation of a health care declaration does not affect the validity  
22 of the revocation.

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

25 (i) Affect the validity of the document;

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

28 (iii) Create a presumption regarding the validity of the  
29 document.

30 (3) The department of health shall prescribe a procedure for an  
31 individual to revoke a health care declaration contained in the  
32 registry.

33 (4) The registry must:

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

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

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

4 (d) Provide the personal representatives of individuals who have  
5 submitted one or more health care declarations to the registry,  
6 attending physicians, advanced registered nurse practitioners, health  
7 care providers licensed by a disciplining authority identified in RCW  
8 18.130.040 who is acting under the direction of a physician or an  
9 advanced registered nurse practitioner, and health care facilities,  
10 as defined in this chapter or in chapter 71.32 RCW, access to the  
11 registry at all times.

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

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

19 (7) The department of health may accept donations, grants, gifts,  
20 or other forms of voluntary contributions to support activities  
21 related to the creation and maintenance of the health care  
22 declarations registry and statewide public education campaigns  
23 related to the existence of the registry. All receipts from donations  
24 made under this section, and other contributions and appropriations  
25 specifically made for the purposes of creating and maintaining the  
26 registry established under this section and statewide public  
27 education campaigns related to the existence of the registry, shall  
28 be deposited into the general fund. These moneys in the general fund  
29 may be spent only after appropriation.

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

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

34 (a) Number of participants in the registry;

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

37 (c) Number of health care declarations revoked and the method of  
38 revocation;

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

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

2 NEW SECTION. **Sec. 3.** If specific funding for the purposes of  
3 this act, referencing this act by bill or chapter number, is not  
4 provided by June 30, 2024, in the omnibus appropriations act, this  
5 act is null and void.

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