

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 694

February 12, 2009

Authored by Marquart

The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight

1.1 A bill for an act
1.2 relating to the Office of the Secretary of State; establishing a health care directive
1.3 registry; appropriating money; proposing coding for new law in Minnesota
1.4 Statutes, chapter 5.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[5.35] HEALTH CARE DIRECTIVE REGISTRY.**

1.7 **Subdivision 1. Establishment; Web site.** The secretary of state shall establish and
1.8 maintain a health care directives registry that is accessible through a Web site maintained
1.9 by the secretary of state.

1.10 **Subd. 2. Filing requirements.** (a) A person may submit to the secretary of state, in
1.11 a form prescribed by the secretary of state, the following documents and any revocations
1.12 of these documents for registration:

1.13 (1) a health care directive; or

1.14 (2) a living will.

1.15 **(b) Documents submitted pursuant to this section must be notarized or witnessed**
1.16 **as prescribed in chapters 145B and 145C.**

1.17 **Subd. 3. Effect of nonregistration or revocation.** (a) Failure to register a
1.18 document with the secretary of state pursuant to this section does not affect the validity
1.19 of a health care directive.

1.20 **(b) Failure to notify the secretary of state of the revocation of a document filed**
1.21 **pursuant to this section does not affect the validity of a revocation that otherwise meets the**
1.22 **applicable requirements for revocation under chapters 145B and 145C.**

1.23 **Subd. 4. Registration; purge of registered documents.** (a) On receipt of a
1.24 completed registration form, the secretary of state shall create a digital reproduction of

2.1 the form, enter the reproduced form into the health care directives registry database, and
2.2 assign each registration a unique file number.

2.3 (b) The secretary of state is not required to review a document to ensure that it
2.4 complies with any particular statutory requirements that may apply to the document.

2.5 (c) After entering the reproduced document into the registry database, the secretary
2.6 of state shall return the original document to the subject of the document, or the subject's
2.7 agent, and provide that person with a printed record of the information entered into the
2.8 database, including a wallet-sized card that contains the document's file number.

2.9 (d) The subject of the document, or the subject's agent, shall review the printed
2.10 record. If the information is accurate, the person may check the box marked "No
2.11 Corrections Required" and sign and return the printed record to the secretary of state's
2.12 office.

2.13 (e) If the subject of the document, or the subject's agent, determines that the printed
2.14 record contains information that is inaccurate, the person shall correct the information
2.15 and sign and return the corrected printed record to the secretary of state. On receipt of
2.16 a corrected printed record, the secretary of state shall make the proper modifications
2.17 and send a corrected printed record to the person who submitted the document. If the
2.18 information is accurate, the person may check the box marked "No Corrections Required"
2.19 and sign and return the printed record to the secretary of state.

2.20 (f) The secretary of state shall activate the entry into the health care directives
2.21 registry database only after receiving a printed record marked "No Corrections Required."

2.22 (g) The secretary of state shall delete a document filed with the registry pursuant
2.23 to this section when the secretary of state receives a revocation of the document along
2.24 with that document's file number.

2.25 (h) The entry of a document pursuant to this section does not affect or otherwise
2.26 create a presumption regarding the validity of the document or the accuracy of the
2.27 information contained in the document.

2.28 (i) The secretary of state shall purge a document filed with the registry upon
2.29 verification by the commissioner of health of the death of the subject of the document.
2.30 The commissioner of health shall share the registry of death certifications with the
2.31 secretary of state in order to conduct the document purge required by this paragraph. The
2.32 secretary of state must purge the registry documents pursuant to this paragraph at least
2.33 once every five years.

2.34 Subd. 5. **Registry information; confidentiality; transfer of information.** (a) The
2.35 registry established pursuant to this section shall be accessible only to the subject of the
2.36 document, or the subject's agent.

3.1 (b) Registrations, file numbers, and other information maintained by the secretary
3.2 of state pursuant to this section are private data as defined in section 13.02, subdivision
3.3 12, and shall not be disclosed to any person other than the subject of the document, or
3.4 the subject's agent.

3.5 (c) Notwithstanding paragraph (b), a health care provider may access the registry
3.6 and receive a patient's health care directive documents for the purpose of providing health
3.7 care services to that patient. For purposes of this provision, a "health care provider" is an
3.8 individual licensed by a health licensing board as defined in section 214.01, subdivision 2.

3.9 (d) The secretary of state may only use information contained in the registry for the
3.10 purposes prescribed in this section.

3.11 (e) At the request of the subject of the document, or the subject's agent, the secretary
3.12 of state may transmit the information received regarding the health care directive to the
3.13 registry system of another jurisdiction as identified by the person.

3.14 Subd. 6. **Liability; limitation.** (a) Except for acts of gross negligence, willful
3.15 misconduct, or intentional wrongdoing, the state is not subject to civil liability for any
3.16 actions arising out of the administration or operation of the registry established pursuant
3.17 to this section.

3.18 (b) This section does not require a health care provider to request from the registry
3.19 information about whether a patient has executed a health care directive. A health care
3.20 provider who makes good faith health care decisions in reliance on the provisions of
3.21 an apparently genuine health care directive received from the registry is immune from
3.22 criminal and civil liability to the same extent and under the same conditions as prescribed
3.23 in section 145C.11.

3.24 (c) This section does not affect the duty of a health care provider to provide
3.25 information to a patient regarding health care directives pursuant to federal law.

3.26 **Sec. 2. APPROPRIATION.**

3.27 \$..... is appropriated to the secretary of state from the general fund in fiscal years
3.28 2010 and 2011 in order to establish and maintain the health care directive registry.