

ASSEMBLY BILL

No. 2445

Introduced by Assembly Member Canciamilla

February 19, 2004

An act to amend Section 4731 of, and to add Chapter 6 (commencing with Section 4745) to Part 2 of Division 4.7 of the Probate Code, and to amend Section 12811 of, and to add Section 1672.6 to, the Vehicle Code, relating to advance health care directives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2445, as introduced, Canciamilla. Advance health care directives: registry.

Existing law provides that an adult with capacity may give individual health care instruction and defines advance health care directives in this regard. Existing law requires a supervising health care provider who knows of the existence of an advance health care directive to record it in a patient's health care record, and requires a health care provider to comply with the instructions of an advance health care directive, with specified exceptions.

This bill would require the Secretary of State to establish and maintain an Advance Health Care Directive Registry, as specified, to be operational on January 1, 2006. The bill would require the registry to provide a means by which, for a fee, a person may record an advance health care directive, and would require the registry to provide ready access to a health care provider seeking to determine a person's intent with regard to health care decisions and who may be authorized to make health care decisions. The bill would require, among other things, that the registry protect the security and confidentiality of the directives while providing access to the directives by telephone, fax, and the

Internet. The bill would require a supervising health care provider, commencing January 1, 2006, to check the registry for an advance health care directive, as specified.

The bill would require the Department of Motor Vehicles, commencing January 1, 2006, to provide a sticker, as specified, that may be affixed to the driver’s license or identification card, which indicates that the individual has an advance health care directive recorded at the registry. The bill would require the Department of Motor Vehicles to provide information regarding advance health care directives, as specified, and to include information regarding advance health care directives in driver education programs.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4731 of the Probate Code is amended to
 2 read:
 3 4731. (a) (1) A supervising health care provider who knows
 4 of the existence of an advance health care directive, a revocation
 5 of an advance health care directive, or a designation or
 6 disqualification of a surrogate, shall promptly record its existence
 7 in the patient’s health care record and, if it is in writing, shall
 8 request a copy. If a copy is furnished, the supervising health care
 9 provider shall arrange for its maintenance in the patient’s health
 10 care record.
 11 (2) (A) *When a supervising health care provider is unable to*
 12 *check directly with a patient regarding an advance health care*
 13 *directive, the supervising health care provider shall check the*
 14 *patient’s driver’s license, if available, for the sticker that indicates*
 15 *that an advance care directive has been recorded at the Advance*
 16 *Health Care Directive Registry. If the supervising health care*
 17 *provider discovers a sticker indicating that an advance health care*
 18 *directive is recorded at the Advance Health Care Directive*
 19 *Registry, or if the patient directs the supervising health care*
 20 *provider to check for an advance health care directive at the*
 21 *Advance Health Care Directive Registry, the supervising health*
 22 *care provider shall arrange for the registry to be contacted as soon*
 23 *as practicable and for a copy of the patient’s advance health care*



1 *directive, if any, to be delivered, at which time the procedures*
2 *described in paragraph (1) shall apply.*

3 *(B) The provisions of this paragraph shall be operative*
4 *January 1, 2006.*

5 (b) A supervising health care provider who knows of a
6 revocation of a power of attorney for health care or a
7 disqualification of a surrogate shall make a reasonable effort to
8 notify the agent or surrogate of the revocation or disqualification.

9 SEC. 2. Chapter 6 (commencing with Section 4745) is added
10 to Part 2 of Division 4.7 of the Probate Code, to read:

11

12 CHAPTER 6. ADVANCE HEALTH CARE DIRECTIVE REGISTRY

13

14 4745. (a) The Secretary of State shall establish and maintain
15 an Advance Health Care Directive Registry as described in this
16 chapter. The registry shall be operational on January 1, 2006.

17 (b) (1) The registry shall provide a means by which, for a fee,
18 a person may record an advance health care directive in the registry
19 and a method for a person to amend or remove a directive that the
20 person has recorded there.

21 (2) An advanced health care directive may be recorded by the
22 person who executes it, or by an attorney, health care provider,
23 health care surrogate, or any other party who is authorized to
24 possesses a valid advance health care directive executed by
25 another person.

26 (c) The registry shall provide ready access to a health care
27 provider seeking to determine a person's intent with regard to
28 health care decisions and who may be authorized to make health
29 care decisions. The registry shall protect the security and
30 confidentiality of the directives while providing access to the
31 directives by telephone, fax, and the Internet.

32 (d) The Secretary of State shall promulgate all regulations
33 necessary for the creation and maintenance of the Advance Health
34 Care Directive Registry. The Secretary of State shall establish and
35 charge a fee to recover the costs of maintaining the registry.

36 SEC. 3. Section 1672.6 is added to the Vehicle Code, to read:

37 1672.6. (a) For purposes of providing a means of identifying
38 persons who have recorded an advance health care directive at the
39 Advance Health Care Directive Registry (Chapter 6 (commencing
40 with Section 4745) of Part 2 of Division 4.7 of the Probate Code),



1 the department shall design the driver’s licenses and identification
2 cards in order that an advance health care directive sticker may be
3 affixed to the licenses and cards. The sticker shall indicate that a
4 person has recorded an advance health care directive at the registry
5 and shall be affixed with a substance that is resistant to any
6 unintentional removal.

7 (b) All driver education courses shall include a segment on
8 advance health care directives, which shall include, at a minimum,
9 the following:

10 (1) A statement that it is the policy of the state to provide
11 information regarding the importance of people executing
12 advance health care directives in order to inform providers of the
13 wishes of the patient.

14 (2) The requirements for executing and recording advance
15 health care directives.

16 (3) Notification of the ability to make a designation on a
17 driver’s license which indicates that the holder of the license has
18 executed an advance health care directive that is recorded at the
19 Advance Health Care Directive Registry (Chapter 6 (commencing
20 with Section 4745) of Part 2 of Division 4.7 of the Probate Code).

21 (c) The provisions of this section shall be operative January 1,
22 2006.

23 SEC. 4. Section 12811 of the Vehicle Code is amended to
24 read:

25 12811. (a) (1) When the department determines that the
26 applicant is lawfully entitled to a license, it shall issue to the person
27 a driver’s license as applied for. The license shall state the class of
28 license for which the licensee has qualified and shall contain the
29 distinguishing number assigned to the applicant, the date of
30 expiration, the true full name, age, and mailing address of the
31 licensee, a brief description and engraved picture or photograph of
32 the licensee for the purpose of identification, and space for the
33 signature of the licensee.

34 Each license shall also contain a space for the endorsement of
35 a record of each suspension or revocation thereof.

36 The department shall use whatever process or processes, in the
37 issuance of engraved or colored licenses, that prohibit, as near as
38 possible, the ability to alter or reproduce the license, or prohibit the
39 ability to superimpose a picture or photograph on the license
40 without ready detection.



1 (2) In addition to the requirements of paragraph (1), a license
2 issued to a person under 18 years of age shall display the words
3 “provisional until age 18.”

4 (b) ~~(1)~~ Upon issuance of a new driver’s license or a renewal of
5 a driver’s license or the issuance of an identification card, the
6 department ~~shall provide~~ shall:

7 (1) *Provide* information on organ and tissue donation,
8 including a standardized form to be filled out by an individual who
9 desires to enroll in the California Organ and Tissue Donor Registry
10 with instructions for mailing the completed form to the California
11 Organ and Tissue Donor Registrar established pursuant to
12 subdivision (a) of Section 7152.7 of the Health and Safety Code,
13 including a donor dot that may be affixed to the new driver’s
14 license or identification card.

15 ~~(2)~~

16 (A) The enrollment form shall be simple in design and shall be
17 produced by the department in cooperation with the California
18 Organ and Tissue Donor Registrar and shall require all of the
19 following information to be supplied by an enrollee:

20 ~~(A)~~

21 (i) Date of birth, sex, full name, and other information deemed
22 necessary to provide a positive identification of an individual.

23 ~~(B)~~

24 (ii) Consent for organs or tissues to be donated for transplant
25 after death.

26 ~~(C)~~

27 (iii) Any limitation of the donation to specific organs or tissues.

28 ~~(3)~~

29 (B) The form shall also include both of the following:

30 ~~(A)~~

31 (i) A description of the process for having a name removed
32 from the registry, and the process for donating money for the
33 benefit of the registry.

34 ~~(B)~~

35 (ii) A statement that the name of any person who enrolls in the
36 registry pursuant to this section shall be made available to
37 federally recognized donor organizations.

38 ~~(4)~~



1 (C) The registry enrollment form shall be posted on the Web
2 sites for the department and the California Health and Human
3 Services Agency.

4 ~~(5)~~

5 (D) The form shall constitute a legal document under the
6 Uniform Anatomical Gift Act (Chapter 3.5 (commencing with
7 Section 7150) of Part 1 of Division 7 of the Health and Safety
8 Code) and shall remain binding after the donor's death despite any
9 express desires of next of kin opposed to the donation.

10 ~~(6)~~

11 (E) The registrar shall ensure that all additions and deletions to
12 the registry shall occur within 30 days of receipt.

13 ~~(7)~~

14 (F) Information obtained by the registrar for the purposes of
15 this subdivision shall be used for these purposes only and shall not
16 be disseminated further by the registrar.

17 (2) (A) *Provide information on advance health care directives,*
18 *including a standardized form to be completed by a person to*
19 *enroll in the California Advance Health Care Directive Registry*
20 *(Chapter 6 (commencing with Section 4745) of Part 2 of Division*
21 *4.7 of the Probate Code), with instructions for submitting the*
22 *completed form to the registry.*

23 (B) *The department shall provide a sticker that may be affixed*
24 *to the driver's license or identification card that indicates that the*
25 *individual has an advance health care directive recorded at the*
26 *California Advance Health Care Directive Registry.*

27 (C) *This paragraph does not impose any additional duty on a*
28 *health care provider.*

29 (D) *For the purposes of this paragraph, "advance health care*
30 *directive" means any writing that satisfies the requirements of*
31 *Section 4673 of the Probate Code.*

32 (E) *The provisions of this paragraph shall be operative*
33 *January 1, 2006.*

34 (c) A public entity or employee shall not be liable for any loss,
35 detriment, or injury resulting directly or indirectly from false or
36 inaccurate information contained in the form provided pursuant to
37 subdivision (b).



- 1 (d) No contract may be let to any nongovernmental entity for
- 2 the processing of driver's licenses, unless the department receives
- 3 two or more qualified bids from independent, responsible bidders.

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