

AMENDED IN ASSEMBLY MAY 23, 2014

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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2452

Introduced by Assembly Member Pan

February 21, 2014

An act to amend Sections 4800, 4801, 4802, and 4806 of, and to add Sections 4801.5 and 4807 to, the Probate Code, relating to advance health care directives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2452, as amended, Pan. Advance health care directive registry.

Existing law directs the Secretary of State to establish an Advance Health Care Directive Registry to receive and release specified information from a person who has executed a written advance health care directive. Existing law requires the Secretary of State to charge a fee to each registrant in an amount such that, when all fees charged to registrants are aggregated, the aggregated fees do not exceed the actual cost of establishing and maintaining the registry. Existing law provides that failure to register with the Secretary of State does not affect the validity of an advance health care directive.

This bill would require, commencing on January 1, 2016, the Secretary of State to establish and maintain access, as specified, to a secure portion of the Secretary of State's Internet Web site that provides an electronic reproduction of an advance health care directive and other specified

documents submitted to the registry system. The bill would require this access to include the ability to view the electronic reproduction on the Internet Web site, as well as download, print, and otherwise retrieve a copy of the electronic reproduction. The bill would, among other things, require the secretary to establish procedures to register, replace, and remove an advance health care directive, as specified. *The bill would require that on or before January 1, 2020, the registry be fully supported by fees charged by the Secretary of State to each registrant. The bill would require the Secretary of State to develop and submit to the Legislature a financial sustainability plan, as specified, on or before January 1, 2018.*

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 4800 of the Probate Code is amended to
 2 read:
 3 4800. (a) (1) The Secretary of State shall establish a registry
 4 system through which a person who has executed a written advance
 5 health care directive may register in a central information center,
 6 information regarding the advance directive, making that
 7 information available upon request to any health care provider,
 8 the public guardian, or the legal representative of the registrant.
 9 (2) Commencing on January 1, 2016, the Secretary of State
 10 shall establish and maintain access, as prescribed by this part, to
 11 a secure portion of the Secretary of State’s Internet Web site that
 12 provides an electronic reproduction of an advance health care
 13 directive and other documents described in subdivision (c)
 14 submitted to the registry system. This access shall include the
 15 ability to view the electronic reproduction on the Internet Web
 16 site, as well as download, print, and otherwise retrieve a copy of
 17 the electronic reproduction.
 18 (b) Commencing on January 1, 2016, the Secretary of State
 19 shall establish a process to register an advance health care directive
 20 and submit personal information and documents to the registry
 21 either by electronic submission or submission of paper documents.
 22 Commencing on January 1, 2016, the Secretary of State shall
 23 establish a process to merge documents in the registry prior to
 24 January 1, 2016, with the access system established in paragraph

1 (2) of subdivision (a). This process shall require a person who
2 registers an advance health care directive or other document
3 described in paragraph (2) to submit to the ~~secretary~~ *Secretary of*
4 *State* all of the following:

- 5 (1) An application in a form prescribed by the Secretary of State.
- 6 (2) A copy or electronic reproduction of any of the following:
 - 7 (A) The registrant's advance health care directive.
 - 8 (B) A values statement, questionnaire, or other document that
 - 9 supplements the advance health care directive.
 - 10 (C) Durable power of attorney form.
 - 11 (D) A physician orders for life-sustaining treatment (POLST)
 - 12 form.
 - 13 (E) The intended place of deposit or safekeeping of a written
 - 14 advance health care directive and any other document described
 - 15 in this paragraph.
 - 16 (F) The name and telephone number of the agent and any
 - 17 alternative agent.
- 18 (3) Any fee established by the Secretary of State pursuant to
- 19 subdivision (f).

20 (c) Information that may be received shall be limited to all of

21 the following regarding the registrant:

- 22 (1) Name.
- 23 (2) Social security number.
- 24 (3) Driver's license number, or other state-issued individual
- 25 identifying number established by law, if any.
- 26 (4) Address.
- 27 (5) Date and place of birth.

28 (d) When the Secretary of State receives the items described in

29 subdivision (b) from a registrant, the secretary shall do all of the

30 following:

- 31 (1) Assign a registration number and password to access the
- 32 registry to the registrant.
- 33 (2) Issue the registrant an Advance Health Care Directive
- 34 Registry registration card indicating that an advance health care
- 35 directive, or information regarding an advance health care directive,
- 36 has been deposited with the registry. The information on the card
- 37 shall include, but not be limited to, the registrant's name,
- 38 registration number, and password to access the registry. Costs
- 39 associated with issuance of the card shall be offset by the fee

1 charged by the Secretary of State to receive and register
2 information at the registry.

3 (3) Make or transfer an electronic reproduction of the advance
4 health care directive and other documents described in paragraph
5 (2) of subdivision (b) and post it to the registry.

6 (e) The Secretary of State, at the request of the registrant or his
7 or her legal representative, shall transmit the information received
8 regarding the written advance health care directive to the registry
9 system of another jurisdiction as identified by the registrant, or his
10 or her legal representative.

11 (f) The Secretary of State shall charge a fee to each registrant
12 in an amount such that, when all fees charged to registrants are
13 aggregated, the aggregated fees do not exceed the actual cost of
14 establishing and maintaining the registry. *On or before January*
15 *1, 2020, the registry shall be fully supported by fees charged*
16 *pursuant to this subdivision.*

17 (g) *On or before January 1, 2018, the Secretary of State shall*
18 *develop and submit to the Legislature a financial sustainability*
19 *plan detailing all of the following:*

20 (1) *The amount of revenue generated by the fee charged*
21 *pursuant to subdivision (f).*

22 (2) *The estimated ongoing costs of maintaining the registry.*

23 (3) *The number of participants in the registry and the projected*
24 *participation in future years.*

25 (4) *A plan for ensuring that the revenue from fees charged*
26 *pursuant to subdivision (f) fully support the ongoing costs of*
27 *maintaining the registry.*

28 (h) (1) *The requirement for submitting a report imposed under*
29 *subdivision (g) is inoperative on January 1, 2022, pursuant to*
30 *Section 10231.5 of the Government Code.*

31 (2) *A report submitted pursuant to subdivision (g) shall be*
32 *submitted in compliance with Section 9795 of the Government*
33 *Code.*

34 SEC. 2. Section 4801 of the Probate Code is amended to read:

35 4801. (a) Notwithstanding any other law, the Secretary of
36 State shall limit access to the registry, including a registrant's
37 advance health care directive, personal information, and other
38 documents received, to when all of the following occur:

39 (1) The assigned registration number and password are provided.

1 (2) Access to the advance health care directive is required
2 pursuant to a lawful order of a court of competent jurisdiction,
3 requested by the registrant or the registrant's legal representative,
4 requested by the public guardian, or requested by a provider of
5 health care to the registrant only for the purpose of providing health
6 care to the registrant.

7 (3) The Secretary of State determines that providing access to
8 the advance health care directive is in the best interest of the
9 registrant. However, a registrant or legal representative of the
10 registrant may access the advance health care directive of the
11 registrant for any purpose.

12 (b) The Secretary of State shall establish procedures to verify
13 the identities of health care providers, the public guardian, and
14 other authorized persons requesting information pursuant to Section
15 4800. No fee shall be charged to any health care provider, the
16 public guardian, or other authorized person requesting information
17 pursuant to Section 4800.

18 (c) A request for access pursuant to this part shall state the need
19 for the information.

20 (d) The Secretary of State shall respond by the close of business
21 on the next business day to a request for information made pursuant
22 to Section 4717 by the emergency department of a general acute
23 care hospital when the request is made by means other than through
24 the Secretary of State's Internet Web site.

25 (e) Information that may be released upon request shall not
26 include the registrant's social security number except when
27 necessary to verify the identity of the registrant.

28 SEC. 3. Section 4801.5 is added to the Probate Code, to read:
29 4801.5. The Secretary of State shall establish procedures for
30 all of the following:

31 (a) The registration of an advance health care directive or other
32 document described in Section 4800 that replaces an advance
33 health care directive or other document that is posted on the
34 registry.

35 (b) The removal from the registry of an advance health care
36 directive or other document described in Section 4800 that has
37 been revoked following the revocation of the advance health care
38 directive or other document or the death of the registrant.

39 (c) The issuance of a duplicate registration card or the provision
40 of other access to the registrant's registration number and password

1 if a registration card issued pursuant to this section is lost, stolen,
2 destroyed, or otherwise unavailable.

3 SEC. 4. Section 4802 of the Probate Code is amended to read:

4 4802. The Secretary of State shall establish procedures to advise
5 each registrant of the following:

6 (a) A health care provider may not honor a written advance
7 health care directive until it receives a copy from the registrant or
8 accesses the advance health care directive from the registry.

9 (b) Each registrant must notify the registry upon revocation of
10 the advance health care directive.

11 (c) Each registrant must reregister upon execution of a
12 subsequent advance health care directive.

13 SEC. 5. Section 4806 of the Probate Code is amended to read:

14 4806. (a) The Secretary of State shall work with the State
15 Department of Public Health and the office of the Attorney General
16 to develop information about end-of-life care, advance health care
17 directives, and registration of the advance health care directives
18 at the registry established pursuant to subdivision (a) of Section
19 4800. This information shall be developed utilizing existing
20 information developed by the office of the Attorney General.

21 (b) Links to the information specified in subdivision (a) and to
22 the registry shall be available on the Internet Web sites of the
23 Secretary of State, the State Department of Public Health, the
24 Department of Motor Vehicles, the office of the Attorney General,
25 the Department of Managed Health Care, the Department of
26 Insurance, the Board of Registered Nursing, and the Medical Board
27 of California.

28 SEC. 6. Section 4807 is added to the Probate Code, to read:

29 4807. Commencing on January 1, 2016, the Secretary of State
30 shall, while establishing and maintaining electronic access to the
31 registry and to the extent practicable, consult with any entity
32 licensed pursuant to Division 2 (commencing with Section 1200)
33 of the Health and Safety Code, to integrate a process for retrieving
34 documents and information stored in the Advance Health Care
35 Directive Registry from a statewide health information exchange
36 system.

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