

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2237

Introduced by

Senators Fiebiger, Mathern

Representatives Gruchalla, Klemin

1 A BILL for an Act to create and enact a new section to title 23 of the North Dakota Century
2 Code, relating to a health care record registry; to provide an appropriation; and to provide an
3 effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to title 23 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Health care record registry - Fees.**

8 1. As used in this section:

9 a. "Health care record" means a health care directive or a revocation of a health
10 care directive executed in accordance with chapter 23-06.5.

11 b. "Registration form" means a form prescribed by the secretary of state to
12 facilitate the filing of a health care record.

13 2. a. The secretary of state shall establish and maintain a health care record
14 registry, through which a health care record may be filed. The registry must
15 be accessible through a website maintained by the secretary of state.

16 b. An individual who is the subject of a health care record, or that individual's
17 agent, may submit to the secretary of state for registration, using a
18 registration form, a health care record executed in accordance with chapter
19 23-06.5.

20 3. Failure to register a health care record with the secretary of state under this
21 section does not affect the validity of the health care record. Failure to notify the
22 secretary of state of the revocation of a health care record filed under this section
23 does not affect the validity of a revocation that otherwise meets the statutory
24 requirements for revocation.

- 1 4. a. Upon receipt of a health care record and completed registration form, the
2 secretary of state shall create a digital reproduction of the health care record,
3 enter the reproduced health care record into the health care record registry
4 database, and assign each registration a unique file number. The secretary
5 of state is not required to review a health care record to ensure the health
6 care record complies with any particular statutory requirements that may
7 apply to the health care record.
- 8 b. The secretary of state shall delete a health care record filed with the registry
9 under this section upon receipt of a revocation of the health care record along
10 with that document's file number.
- 11 c. The entry of a health care record under this section does not affect or
12 otherwise create a presumption regarding the validity of the health care
13 record or the accuracy of the information contained in the health care record.
- 14 5. a. The registry must be accessible by entering the file number and password on
15 the internet website. Registration forms, file numbers, and other information
16 maintained by the secretary of state under this section are confidential and
17 the state may not disclose this information to any person other than the
18 subject of the document, or the subject's agent. The secretary of state may
19 not use information contained in the registry except as provided under this
20 chapter.
- 21 b. At the request of the subject of the health care record, or the subject's agent,
22 the secretary of state may transmit the information received regarding the
23 health care record to the registry system of another jurisdiction as identified
24 by the requester.
- 25 c. This section does not require a health care provider to seek to access registry
26 information about whether a patient has executed a health care record that
27 may be registered under this section. A health care provider who makes
28 good-faith health care decisions in reliance on the provisions of an apparently
29 genuine health care record received from the registry is immune from criminal
30 and civil liability to the same extent and under the same conditions as
31 prescribed in section 23-06.5-12. This section does not affect the duty of a

1 health care provider to provide information to a patient regarding health care
2 directives as may be required under federal law.

3 6. The secretary of state may accept a gift, grant, donation, bequest, or other form of
4 voluntary contribution to support, promote, and maintain the registry. Any fees
5 collected under this chapter must be deposited in the secretary of state's general
6 services operating fund. The secretary of state shall charge and collect a
7 reasonable fee for filing a health care record and a revocation of a health care
8 record.

9 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the
10 general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much
11 of the sum as may be necessary, to the secretary of state for the purpose of establishing the
12 health care record registry, for the biennium beginning July 1, 2009, and ending June 30, 2011.

13 **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on July 1,
14 2010.