

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

Senator Fiebiger

1 A BILL for an Act to create and enact a new chapter to title 23 of the North Dakota Century
2 Code, relating to a health care directives registry.

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

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

6 **Health care directives registry.**

- 7 1. The secretary of state shall establish and maintain a health care directives registry,
8 through which a health care directive document may be filed. The registry must be
9 accessible through a website maintained by the secretary of state.
- 10 2. An individual who is the subject of a health care directive document, or that
11 individual's agent, may submit to the secretary of state, in a form prescribed by the
12 secretary of state, the following health care directive documents and any
13 revocations of these documents for registration:
- 14 a. A durable power of attorney for health care;
15 b. A health care directive;
16 c. A living will; or
17 d. A durable power of attorney for an incapacitated person.

18 **Effect of nonregistration or revocation.** The secretary of state may require that
19 documents submitted for filing under this chapter be notarized or witnessed. Failure to register
20 a document with the secretary of state under this chapter does not affect the validity of the
21 document. Failure to notify the secretary of state of the revocation of a document filed under
22 this chapter does not affect the validity of a revocation that otherwise meets the applicable
23 requirements for revocation.

24 **Registration - Purge of registered documents.**

- 1 1. Upon receipt of a completed registration form, the secretary of state shall create a
2 digital reproduction of the form, enter the reproduced form into the health care
3 directives registry database, and assign each registration a unique file number.
4 The secretary of state is not required to review a document to ensure the
5 document complies with any particular statutory requirements that may apply to the
6 document.
- 7 2. After entering the reproduced document into the registry database, the secretary of
8 state shall return the original document to the person filing the document and
9 provide that person with a printed record of the information entered into the
10 database, including a wallet-sized card that contains the document's file number.
11 The person filing the document shall review the printed record and if the
12 information is accurate, the person may check the box marked "No Corrections
13 Required" and sign and return the printed record to the secretary of state's office.
14 If the person filing the document determines the printed record contains inaccurate
15 information, the person shall correct the information and sign and return the
16 corrected printed record to the secretary of state. Upon receipt of a corrected
17 printed record, the secretary of state shall make the proper modifications and send
18 a corrected printed record to the person submitting the document. If the
19 information is accurate, the person may check the box marked "No Corrections
20 Required" and sign and return the printed record to the secretary of state. The
21 secretary of state shall activate the entry into the health care directives registry
22 database upon receipt of a printed record marked "No Corrections Required".
- 23 3. The secretary of state shall delete a document filed with the registry under this
24 chapter upon receipt of a revocation of the document along with that document's
25 file number. The entry of a document under this chapter does not affect or
26 otherwise create a presumption regarding the validity of the document or the
27 accuracy of the information contained in the document.
- 28 4. The secretary of state shall purge a document filed with the registry upon receipt of
29 verification by the state department of health office of statistical services of the
30 death of the subject of the document. The office of statistical services shall share
31 the registry of death certifications with the secretary of state in order to conduct the

document purge required under this subsection. The secretary of state must purge the registry documents under this subsection at least once every five years.

Registry information - Confidentiality - Transfer of information.

1. The registry is accessible by entering the file number and password on the internet website. Registrations, file numbers, and other information maintained by the secretary of state under this section are confidential and the state may not disclose this information to any person other than the subject of the document, or the subject's agent. The secretary of state may not use information contained in the registry except as provided under this chapter.
2. At the request of the subject of the document, or the subject's agent, the secretary of state may transmit the information received regarding the health care directive to the registry system of another jurisdiction as identified by the requester.
3. Except for acts of gross negligence, willful misconduct, or intentional wrongdoing, the state is not subject to civil liability for any actions arising out of the administration or operation of the registry established under this chapter. This subsection does not lessen limitations on liability provided under chapter 32-12.2.
4. This chapter does not require a health care provider to seek to access registry information about whether a patient has executed a document that may be registered under this chapter. A health care provider who makes good-faith health care decisions in reliance on the provisions of an apparently genuine document received from the registry is immune from criminal and civil liability to the same extent and under the same conditions as prescribed in section 23-06.5-12. This chapter does not affect the duty of a health care provider to provide information to a patient regarding health care directives as may be required under federal law.