

January 20, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2037

Page 1, line 1, replace "a new section to chapter 44-04 and three" with "four"

Page 1, line 4, after "sections" insert "23-06.5-19,"

Page 1, line 4, after "54-59-25" insert a comma

Page 1, replace lines 8 through 14 with:

"SECTION 1. AMENDMENT. Section 23-06.5-19 of the North Dakota Century Code is amended and reenacted as follows:

23-06.5-19. Health care record registry - Fees.

1. As used in this section:
 - a. "Health care record" means a health care directive or a revocation of a health care directive executed in accordance with this chapter.
 - b. "Registration form" means a form prescribed by the ~~secretary of state~~information technology department to facilitate the filing of a health care record.
2.
 - a. The ~~secretary of state~~information technology department may establish and maintain a health care record registry, through which a health care record may be filed. The registry must be accessible through a website maintained by the ~~secretary of state~~information technology department.
 - b. An individual who is the subject of a health care record, or that individual's agent, may submit to the ~~secretary of state~~information technology department for registration, using a registration form, a health care record executed in accordance with this chapter.
3. Failure to register a health care record with the ~~secretary of state~~information technology department under this section does not affect the validity of the health care record. Failure to notify the ~~secretary of state~~information technology department of the revocation of a health care record filed under this section does not affect the validity of a revocation that otherwise meets the statutory requirements for revocation.
4.
 - a. Upon receipt of a health care record and completed registration form, the ~~secretary of state~~information technology department shall create a digital reproduction of the health care record, enter the reproduced health care record into the health care record registry database, and assign each registration a unique file number. The ~~secretary of state~~information technology department is not required to review a health care record to ensure the health care record complies with any particular statutory requirements that may apply to the health care record.

- b. The ~~secretary of state~~ information technology department shall delete a health care record filed with the registry under this section upon receipt of a revocation of the health care record along with that document's file number.
 - c. The entry of a health care record under this section does not affect or otherwise create a presumption regarding the validity of the health care record or the accuracy of the information contained in the health care record.
5. a. The registry must be accessible by entering the file number and password on the internet website. Registration forms, file numbers, and other information maintained by the ~~secretary of state~~ information technology department 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~~ information technology department may not use information contained in the registry except as provided under this chapter.
- b. At the request of the subject of the health care record, or the subject's agent, the ~~secretary of state~~ information technology department may transmit the information received regarding the health care record to the registry system of another jurisdiction as identified by the requester.
 - c. This section does not require a health care provider to seek to access registry information about whether a patient has executed a health care record that may be registered under this section. A health care provider who makes good-faith health care decisions in reliance on the provisions of an apparently genuine health care record 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 section 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.
6. ~~The secretary of state may accept a gift, grant, donation, bequest, or other form of voluntary contribution to establish, support, promote, and maintain the registry. Any funds contributed under this subsection and any fees collected under this section must be deposited in the secretary of state's general services operating fund. The secretary of state shall~~ information technology department may charge and collect a reasonable fee for filing a health care record and a revocation of a health care record."

Page 4, after line 24, insert:

"**SECTION 5.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Health information exchange - Confidential records.

Any individually identifiable health information, as defined under the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191], submitted to, stored in, or transmitted by the health information exchange under chapter 54-59 and any such data or record in the possession of the health information technology office is confidential. Any other information relating to patients, individuals,

or individually identifiable demographic information contained in a master client index submitted to, stored in or transmitted by the health information exchange or in the possession of the health information technology office is an exempt record."

Page 5, line 10, replace "6" with "7"

Renumber accordingly