Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 219

HOUSE BILL 2172

AN ACT

AMENDING TITLE 36, CHAPTER 32, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; RELATING TO THE HEALTH CARE DIRECTIVES REGISTRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 36, chapter 32, Arizona Revised Statutes, is amended by adding article 7, to read:

ARTICLE 7. HEALTH CARE DIRECTIVES REGISTRY

36-3291. Health care directives registry; web site

A. SUBJECT TO THE AVAILABILITY OF MONIES, THE SECRETARY OF STATE SHALL ESTABLISH AND MAINTAIN A HEALTH CARE DIRECTIVES REGISTRY.

B. THE REGISTRY SHALL BE ACCESSIBLE THROUGH A WEB SITE MAINTAINED BY THE SECRETARY OF STATE.

C. THE SECRETARY OF STATE MAY ACCEPT GIFTS, GRANTS, DONATIONS, BEQUESTS AND OTHER FORMS OF VOLUNTARY CONTRIBUTIONS TO SUPPORT, PROMOTE AND MAINTAIN THE REGISTRY. THE LEGISLATURE OR THE SECRETARY OF STATE SHALL NOT APPROPRIATE OR TRANSFER STATE GENERAL FUND OR OTHER STATE MONIES TO SUPPORT, PROMOTE AND MAINTAIN THE REGISTRY.

36-3292. Filing requirements

A. A PERSON MAY SUBMIT TO THE SECRETARY OF STATE, IN A FORM PRESCRIBED BY THE SECRETARY OF STATE, THE FOLLOWING DOCUMENTS AND ANY REVOCATIONS OF THESE DOCUMENTS FOR REGISTRATION:

1. A HEALTH CARE POWER OF ATTORNEY.

2. A LIVING WILL.

3. A MENTAL HEALTH CARE POWER OF ATTORNEY.

B. THE PERSON WHO SUBMITS A DOCUMENT FOR REGISTRATION PURSUANT TO THIS SECTION MUST PROVIDE A RETURN ADDRESS.

C. DOCUMENTS SUBMITTED PURSUANT TO THIS SECTION MUST BE NOTARIZED OR WITNESSED AS PRESCRIBED BY THIS CHAPTER.

36-3293. Effect of nonregistration or revocation

A. FAILURE TO REGISTER A DOCUMENT WITH THE SECRETARY OF STATE PURSUANT TO THIS ARTICLE DOES NOT AFFECT THE VALIDITY OF A HEALTH CARE DIRECTIVE.

B. FAILURE TO NOTIFY THE SECRETARY OF STATE OF THE REVOCATION OF A DOCUMENT FILED PURSUANT TO THIS ARTICLE DOES NOT AFFECT THE VALIDITY OF A REVOCATION THAT OTHERWISE MEETS THE REQUIREMENTS FOR A REVOCATION PURSUANT TO THIS CHAPTER.

36-3294. Registration; purge of registered documents

A. ON RECEIPT OF A COMPLETED REGISTRATION FORM, THE SECRETARY OF STATE SHALL CREATE A DIGITAL REPRODUCTION OF THE FORM, ENTER THE REPRODUCED FORM INTO THE HEALTH CARE DIRECTIVES REGISTRY DATABASE AND ASSIGN EACH REGISTRATION A UNIQUE FILE NUMBER AND PASSWORD.

B. THE SECRETARY OF STATE IS NOT REQUIRED TO REVIEW A DOCUMENT TO ENSURE THAT IT COMPLIES WITH THE PARTICULAR STATUTORY REQUIREMENTS APPLICABLE TO THE DOCUMENT.

C. AFTER ENTERING THE REPRODUCED DOCUMENT INTO THE REGISTRY DATABASE, THE SECRETARY OF STATE SHALL RETURN THE ORIGINAL DOCUMENT TO THE PERSON WHO SUBMITTED THE DOCUMENT AND PROVIDE THAT PERSON WITH A PRINTED RECORD OF THE INFORMATION ENTERED INTO THE DATABASE UNDER THE FILE NUMBER AND A WALLET SIZE CARD THAT CONTAINS THE DOCUMENT'S FILE NUMBER AND A PASSWORD.

D. THE PERSON WHO SUBMITTED THE DOCUMENT SHALL REVIEW THE PRINTED RECORD. IF THE INFORMATION IS ACCURATE, THE PERSON SHALL CHECK THE BOX MARKED "NO CORRECTIONS REQUIRED" AND SIGN AND RETURN THE PRINTED RECORD TO THE SECRETARY OF STATE'S OFFICE.

E. IF THE PERSON WHO SUBMITTED THE DOCUMENT DETERMINES THAT THE PRINTED RECORD IS INACCURATE, THE PERSON SHALL CORRECT THE INFORMATION AND SIGN AND RETURN THE CORRECTED PRINTED RECORD TO THE SECRETARY OF STATE. ON RECEIPT OF A CORRECTED PRINTED RECORD, THE SECRETARY OF STATE SHALL MAKE THE PROPER CORRECTIONS AND SEND A CORRECTED PRINTED RECORD TO THE PERSON WHO SUBMITTED THE DOCUMENT. IF THE INFORMATION IS ACCURATE, THE PERSON SHALL CHECK THE BOX MARKED "NO CORRECTIONS REQUIRED" AND SIGN AND RETURN THE PRINTED RECORD TO THE SECRETARY OF STATE'S OFFICE.

F. THE SECRETARY OF STATE SHALL ACTIVATE THE ENTRY INTO THE HEALTH CARE DIRECTIVES REGISTRY DATABASE ONLY AFTER RECEIVING A PRINTED RECORD MARKED "NO CORRECTIONS REQUIRED".

G. THE SECRETARY OF STATE SHALL DELETE A DOCUMENT FILED WITH THE REGISTRY PURSUANT TO THIS SECTION WHEN THE SECRETARY OF STATE RECEIVES A REVOCATION OF A DOCUMENT ALONG WITH THAT DOCUMENT'S FILE NUMBER AND PASSWORD.

H. THE ENTRY OF A DOCUMENT PURSUANT TO THIS ARTICLE DOES NOT:

1. AFFECT THE VALIDITY OF THE DOCUMENT.

2. RELATE TO THE ACCURACY OF INFORMATION CONTAINED IN THE DOCUMENT.

3. CREATE A PRESUMPTION REGARDING THE VALIDITY OF THE DOCUMENT OR THE ACCURACY OF INFORMATION CONTAINED IN THE DOCUMENT.

I. THE SECRETARY OF STATE SHALL PURGE A DOCUMENT FILED WITH THE REGISTRY ON VERIFICATION BY THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES OF THE DEATH OF THE PERSON WHO SUBMITTED THE DOCUMENT. THE SECRETARY OF STATE SHALL PURGE THE REGISTRY OF DOCUMENTS PURSUANT TO THIS SUBSECTION AT LEAST ONCE EVERY FIVE YEARS. THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES SHALL SHARE ITS REGISTRY OF DEATH CERTIFICATES WITH THE SECRETARY OF STATE IN ORDER TO CONDUCT THE DOCUMENT PURGE REQUIRED BY THIS SUBSECTION.

36-3295. Registry information; confidentiality; transfer of information

A. THE REGISTRY ESTABLISHED PURSUANT TO THIS ARTICLE IS ACCESSIBLE ONLY BY ENTERING THE FILE NUMBER AND PASSWORD ON THE INTERNET WEB SITE.

B. REGISTRATIONS, FILE NUMBERS, PASSWORDS AND ANY OTHER INFORMATION MAINTAINED BY THE SECRETARY OF STATE PURSUANT TO THIS ARTICLE ARE CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO ANY PERSON OTHER THAN THE PERSON WHO SUBMITTED THE DOCUMENT OR THE PERSON'S PERSONAL REPRESENTATIVE.

C. NOTWITHSTANDING SUBSECTION B, A HEALTH CARE PROVIDER MAY ACCESS THE REGISTRY AND RECEIVE A PATIENT'S HEALTH CARE DIRECTIVE DOCUMENTS FOR THE PROVISION OF HEALTH CARE SERVICES BY SUBMITTING THE PATIENT'S FILE NUMBER AND PASSWORD.

D. THE SECRETARY OF STATE SHALL USE INFORMATION CONTAINED IN THE REGISTRY ONLY FOR PURPOSES PRESCRIBED IN THIS ARTICLE.

E. AT THE REQUEST OF A PERSON WHO SUBMITTED THE DOCUMENT, 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 PERSON.

36-3296. Liability; limitation

A. EXCEPT FOR ACTS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR INTENTIONAL WRONGDOING, THIS STATE IS NOT SUBJECT TO CIVIL LIABILITY FOR ANY CLAIMS OR DEMANDS ARISING OUT OF THE ADMINISTRATION OR OPERATION OF THE REGISTRY ESTABLISHED PURSUANT TO THIS ARTICLE.

B. THIS ARTICLE DOES NOT REQUIRE A HEALTH CARE PROVIDER TO REQUEST FROM THE REGISTRY INFORMATION ABOUT WHETHER A PATIENT HAS EXECUTED A HEALTH CARE DIRECTIVE. A HEALTH CARE PROVIDER WHO MAKES GOOD FAITH HEALTH CARE DECISIONS IN RELIANCE ON THE PROVISIONS OF AN APPARENTLY GENUINE HEALTH CARE DIRECTIVE RECEIVED FROM THE REGISTRY IS IMMUNE FROM CRIMINAL AND CIVIL LIABILITY TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS PRESCRIBED IN SECTION 36-3205.

C. THIS ARTICLE DOES NOT AFFECT THE DUTY OF A HEALTH CARE PROVIDER TO PROVIDE INFORMATION TO A PATIENT REGARDING HEALTH CARE DIRECTIVES PURSUANT TO FEDERAL LAW.

36-3297. Health care directives registry fund

A. THE HEALTH CARE DIRECTIVES REGISTRY FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED PURSUANT TO THIS ARTICLE. THE SECRETARY OF STATE SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

B. ON NOTICE FROM THE SECRETARY OF STATE, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

C. THE SECRETARY OF STATE SHALL USE FUND MONIES TO SUPPORT, PROMOTE AND MAINTAIN THE REGISTRY.

D. FUND MONIES SHALL NOT INCLUDE MONIES APPROPRIATED FROM THE STATE GENERAL FUND.

APPROVED BY THE GOVERNOR MAY 11, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2004.