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Senate Bill 723 (as introduced 10-4-11)
Sponsor: Senator Jim Marleau
Committee: Health Policy

Date Completed: 10-5-11

CONTENT

The bill would amend the Public Health Code to do the following:

- **Authorize the Department of Community Health (DCH) to create and maintain a voluntary internet registry of advanced directives, known as the Peace of Mind Registry.**
- **Allow the DCH to contract with a peace of mind organization (a certified organ procurement organization) to create and maintain the Registry at the organization's expense.**
- **Require the DCH to ensure the privacy and security of Registry information.**
- **Restrict the use of Registry information.**
- **Require the DCH or peace of mind organization to report annually to the Legislature on the number of registrations.**
- **Provide immunity from civil liability for a peace of mind organization that contracted with the DCH, and the organization's employees.**

Specifically, the DCH could create, operate, and maintain the Registry, which would contain the peace of mind directives of voluntary registrants who were Michigan residents. The Registry would have to be created, operated, and maintained as provided in the Code.

("Peace of mind directive" would mean an advance health care directive that was registered or filed with the Registry. "Peace of Mind Registry" would mean an internet website containing access to peace of mind directives as provided under the Code.)

The DCH could delegate the creation, operation, and maintenance of the Registry by contract to a peace of mind registry organization contingent upon the organization's incurring all of the cost to design, maintain, and operate it. ("Peace of mind registry organization" would mean an organization certified or recertified by the Secretary of the U.S. Department of Health and Human Services as a qualified organ procurement organization, or its successor organization.)

A peace of mind directive would have to be submittable through the U.S. mail and through uploaded portable document format (PDF). A directive application would have to contain a signature line following each section.

The Registry would have to be accessible to registrants, health care providers, and the DCH by way of a designated user identification and password. It would have to store all of an individual's peace of mind directives. The most recently signed directive would supersede any earlier directive.

The Registry also would have to provide electronic access, including the transfer of stored directives on a continuous basis at no cost to health care providers. In addition, the

Registry would have to provide electronic storage and access to directives submitted at no cost to the registrant. It would have to include a unique identifier-searchable database, including the last four digits of an individual's Social Security number and his or her date of birth and address.

The DCH, the Secretary of State, and the Department of Human Services each would have to provide on its public website information on peace of mind directives and the Registry, and promote public awareness of the advantages of creating directives and the Registry's availability.

The Registry would have to maintain a record of each individual who filed a directive to be stored, and create and provide forms for the registration and revocation of a directive. The Registry would have to satisfy these conditions to the DCH's satisfaction.

The DCH would have to ensure the privacy and security of all documents and information submitted to, transmitted from, or stored in the Registry. The Department and any person who gained access to the Registry would have to comply with all other provisions of the Code and any other State or Federal law establishing privacy and security standards applicable to health or other personal identifying information.

Registry information could not be retrieved or used for any purpose unrelated to decision-making for health care or disposition of human remains. The information could be used, however, for statistical or analytical purposes if the individual's identity were not revealed and all personal identifying information remained confidential.

The DCH or its designee would have to give both of the following to a person who filed a peace of mind directive to be stored in the Registry:

- A wallet-sized card indicating that the holder had a directive in the Registry.
- An electronic mail message or postcard indicating confirmation of the registration.

By January 31 of each year, the DCH or peace of mind organization, as applicable, would have to report to the standing committees of the Senate and House of Representatives on health policy on the total number of current and new registrants who submitted directives during the preceding calendar year.

The DCH could promulgate rules to provide for the implementation and administration of the bill's provisions.

A peace of mind registry organization with which the DCH contracted, and its employees, would be immune from civil liability arising from the accuracy or content of the Registry.

Proposed MCL 333.10301

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would permit the Department of Community Health to implement the "Peace of Mind Registry". The Department would be permitted to contract with an organization that would create, maintain, operate, and pay the costs of the Registry. Creating and operating the Registry would lead to indeterminate administrative costs. If an outside organization contracted with the Department to create and operate the registry, then there would be no cost to the State government.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.