

Act No. 189
Public Acts of 2023
Approved by the Governor
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

**Introduced by Reps. Haadsma, McKinney, DeBoer, Morgan, Hood, Paiz, Byrnes, Miller, Rogers,
Liberati, Dievendorf, Tyrone Carter, MacDonell, Edwards, Hill and Hope**

ENROLLED HOUSE BILL No. 4646

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 10121 and 10301 (MCL 333.10121 and 333.10301), section 10121 as added by 2008 PA 39 and section 10301 as added by 2012 PA 179.

The People of the State of Michigan enact:

Sec. 10121. (1) As used in this section:

(a) “Advance health care directive” means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor’s direction concerning a health care decision for the prospective donor. Advance health care directive includes a durable power of attorney under the uniform power of attorney act and a designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5520.

(b) “Declaration” means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) “Health care decision” means any decision regarding the health care of the prospective donor.

(2) If a prospective donor has a declaration or advance health care directive or is enrolled in a hospice program, and the terms of the declaration, directive, or enrollment and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a body part for transplantation or therapy, the prospective donor’s attending physician, the prospective donor, and, if appropriate, the hospice medical director shall confer to resolve the conflict. If the

prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration, directive, or hospice enrollment, or, if there is no agent or the agent is not reasonably available, another person authorized by law other than this part to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The authorized parties shall attempt to resolve the conflict as expeditiously as possible. Authorized parties may obtain information relevant to the resolution of the conflict from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 10109. Before resolution of the conflict, measures necessary to ensure the medical suitability of the body part are permissible if they are not contraindicated by appropriate end-of-life care as determined by the stated wishes of the prospective donor, by a written advance health care directive, or, if appropriate, by the hospice medical director.

Sec. 10301. (1) The department may create, operate, and maintain the peace of mind registry, which must contain the directives of voluntary registrants who are residents of this state. The peace of mind registry must be created, operated, and maintained as provided in this act.

(2) The department may by contract delegate the creation, operation, and maintenance of a peace of mind registry to a peace of mind registry organization contingent on the peace of mind registry organization incurring all of the cost related to design, maintain, and operate the registry.

(3) Both of the following conditions apply to a directive:

(a) A directive may be submittable through the United States mail, or through uploaded portable document format (PDF) or another secure electronic format as determined by the department.

(b) A directive must contain a signature line for the registrant.

(4) The peace of mind registry must meet all of the following requirements:

(a) Be accessible to registrants, health care providers, and the department by way of a designated user identification and password.

(b) Store all an individual's directive. However, the most recently signed directive supersedes any earlier directive.

(c) Provide electronic access to stored directives on a continuous basis at no cost to the health care providers and allow health care providers to transmit directives into their respective electronic medical records.

(d) Provide electronic storage and access to directives submitted at no cost to the registrant.

(e) Include a unique identifier-searchable database, including, but not limited to, the last 4 digits of an individual's Social Security number and the individual's date of birth and address.

(5) The department and the secretary of state shall each provide on its public website information on directives and the peace of mind registry. The department and the secretary of state shall promote public awareness of the advantages of creating directives and the availability of the registry.

(6) The peace of mind registry must satisfy all of the following conditions to the satisfaction of the department:

(a) Maintain a record of each individual who files a directive to be stored in the peace of mind registry and make the record available to the department.

(b) Create and provide forms for the registration of a directive.

(c) Create and provide forms for the revocation of a directive.

(7) The department and the peace of mind registry organization shall ensure the privacy and security of all documents and information submitted to, transmitted from, or stored in the peace of mind registry. The department and any person who accesses the peace of mind registry shall comply with all other provisions of this act and any other law of this state or federal law establishing privacy and security standards applicable to health or other personal identifying information.

(8) Information in the peace of mind registry must not be accessed or used for any purpose unrelated to decision making for health care or disposition of human remains, except that the information may be used solely by the department or its designee for statistical or analytical purposes if the individual's identity is not revealed and all personal identifying information remains confidential.

(9) The department or its designee shall provide both of the following to an individual who files a directive with the peace of mind registry to be stored in the registry:

(a) A wallet-sized card indicating that the holder has a directive in the registry.

(b) An electronic mail message or postcard indicating confirmation of the registration of a directive.

(10) By January 31 of each year, the department or peace of mind organization, as applicable, shall report to the standing committees of the house of representatives and senate on health policy stating the total number of current and new registrants who have submitted directives during the preceding calendar year.

(11) The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the implementation and administration of this section.

(12) A peace of mind registry organization, with which the department has contracted under subsection (2), and its employees are immune from civil liability arising from the accuracy or content of the registry, except for willful negligence or gross negligence.

(13) A directive that was filed with and stored in the peace of mind registry is not considered to be of greater legal weight or validity solely by virtue of that filing and storage.

(14) As used in this section:

(a) "Department" means the department of health and human services.

(b) "Directive" means a document that is registered or filed with the peace of mind registry as provided in this act and that is either of the following:

(i) A durable power of attorney under the uniform power of attorney act and a designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5520.

(ii) A signed or authorized record concerning an anatomical gift containing a donor's direction concerning a health care decision for the donor under the revised uniform anatomical gift law, sections 10101 to 10123.

(c) "Health care provider" means any of the following:

(i) A health professional licensed, registered, or otherwise authorized to engage in a health profession under part 170, 172, or 175, or a law of another state substantially similar to part 170, 172, or 175.

(ii) A health facility or agency licensed or certified under article 17 or a law of another state substantially similar to article 17.

(d) "Peace of mind registry" or "registry" means an internet website containing access to directives as provided under this act.

(e) "Peace of mind registry organization" means an organization certified or recertified by the secretary of the United States Department of Health and Human Services as a qualified organ procurement organization under 42 USC 273(b), or its successor organization.

(f) "Sign" means that, with the present intent to authenticate or adopt a record, an individual does either of the following:

(i) Executes or adopts a tangible symbol.

(ii) Attaches to or logically associates with the record an electronic symbol, sound, or process.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4644 of the 102nd Legislature is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor

Compiler's note: House Bill No. 4644, referred to in enacting section 1, was filed with the Secretary of State November 7, 2023 and became 2023 PA 187, Eff. July 1, 2024.