

HOUSE BILL NO. 71

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HOLMES, DAHLSTROM, MILLETT, AND KAWASAKI

Introduced: 1/20/09

Referred: Health and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a registry for advance health care directives."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 13.52.080 is amended by adding a new subsection to read:

4 (d) A health care facility is not subject to civil or criminal liability for

5 (1) acting in reliance on an advance health care directive obtained from
6 the directive registry established under AS 13.52.310; or

7 (2) not checking the directive registry established under AS 13.52.310
8 to determine if a patient of the health care facility has filed an advance health care
9 directive on the registry.

10 * **Sec. 2.** AS 13.52.223(a) is amended to read:

11 (a) When a hospital refers an individual at or near death to a procurement
12 organization, the organization may make a reasonable search of the directive
13 registry established under AS 13.52.310 and shall make a reasonable search of the
14 other records of the department and a donor registry.

15 * **Sec. 3.** AS 13.52.223(b) is amended to read:

1 (b) A procurement organization shall be allowed reasonable access to
 2 information in the records of the department, except as provided under
 3 AS 13.52.310, to ascertain whether an individual at or near death is a donor.

4 * **Sec. 4.** AS 13.52 is amended by adding a new section to read:

5 **Sec. 13.52.310. Advance health care directive registry.** (a) The department
 6 shall establish and maintain a registry for advance health care directives.

7 (b) An individual who has made a written directive for the individual may file
 8 the directive with the department for placement in the directive registry.

9 (c) Except as provided in this subsection and by (d) of this section, the
 10 directive registry is confidential, and the department may not use the information in
 11 the directive registry for another purpose. The department may release

12 (1) information on or a copy of a directive in the registry to the

13 (A) individual who made the directive;

14 (B) agent, guardian, or surrogate of the individual who made
 15 the directive; or

16 (C) health care facility where the individual who made the
 17 directive is a patient;

18 (2) a copy of a directive in the registry to a hospital in another state if
 19 requested by the

20 (A) individual who made the directive; or

21 (B) agent, guardian, or surrogate of the individual who made
 22 the directive.

23 (d) The department shall make the registry accessible for viewing on the
 24 Internet 24 hours a day to a health care facility to obtain information on or a copy of a
 25 directive for an individual who is a patient at the health care facility.

26 (e) The department is not required to review a directive for validity or
 27 compliance with this chapter or another law before placing the directive in the
 28 registry.

29 (f) The department shall remove a directive from the registry and return it to
 30 the individual who made the directive if the individual, or the individual's agent,
 31 guardian, or surrogate requests that the directive be removed.

1 (g) The department shall review the registry every five years and remove
2 directives of individuals who have been deceased for six months or more.

3 (h) Not filing a directive with the department for placement in the registry
4 does not affect the validity of the directive. Failure to notify the department that a
5 directive in the registry has been revoked does not affect the validity of the revocation.

6 (i) The department may charge a fee to file, return, or provide a copy of or
7 information on a directive filed in the registry, except that the department may not
8 charge a fee for removing a directive from the registry or for answering an inquiry by
9 a health care provider regarding whether an individual has a directive in the registry.
10 The fee may not exceed the department's administrative costs of fulfilling the request.

11 (j) To protect the security of the directives and the information in the
12 directives on the registry, the department shall establish by regulation identification
13 procedures and requirements for an individual, agent, surrogate, guardian, or health
14 care provider to access the registry.

15 (k) In this section,

16 (1) "directive" means a written advance health care directive;

17 (2) "registry" means the registry established by this section.