

HB

71

CS FOR HOUSE BILL NO. 71()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES HOLMES, DAHLSTROM, MILLETT, AND KAWASAKI

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 or hospital is not subject to civil or criminal liability
5 for

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

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

11 *** Sec. 2.** AS 13.52 is amended by adding a new section to read:

12 **Sec. 13.52.310. Advance health care directive registry.** (a) The department
13 shall establish and maintain a registry for advance health care directives. The registry
14 must consist of

15 (1) a list of the names of individuals who have made written directives

1 for themselves and who have filed them with the department under (b) of this section;
2 and

3 (2) scanned copies of the directives identified in (1) of this subsection.

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

6 (c) Except as provided in this subsection and by (d) of this section, the registry
7 is confidential, and the department may not use the information in the registry for
8 another purpose. The department may release by mail or fax

9 (1) the name of an individual who filed a directive with the department
10 under (b) of this section and a copy of a directive in the registry to

11 (A) the individual who made the directive;

12 (B) the agent, guardian, or surrogate of the individual who
13 made the directive; or

14 (C) a health care facility in this state or hospital in this state if
15 the individual who made the directive is a patient of the health care facility or
16 hospital;

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

19 (A) individual who made the directive; or

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

22 (d) The department shall make the registry accessible for viewing on the
23 Internet 24 hours a day to a hospital in this state to determine if an individual who is a
24 patient at the health care facility has a directive or to obtain a copy of a directive for an
25 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 requests in writing that the
31 directive be removed.

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

4 (h) The department may charge a fee to file, return, or provide a copy of a
5 directive filed in the registry under this section, except that the department may not
6 charge a fee for removing a directive from the registry or for answering an inquiry by
7 a health care facility or hospital in this state regarding whether an individual has a
8 directive in the registry. The fee may not exceed the department's administrative costs
9 of fulfilling the request.

10 (i) To protect the security of the directives and names on the registry, the
11 department shall establish by regulation identification procedures and requirements for
12 an individual, agent, surrogate, guardian, hospital, or health care facility to access the
13 registry.

14 (j) The department shall establish by regulation criteria and a schedule for
15 removing directives from the registry.

16 (k) The department and its employees are not liable for civil damages as a
17 result of an act or omission in the establishment or maintenance of the registry or other
18 implementation of this section.

19 (l) In this section,

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

21 (2) "registry" means the registry established under this section.

AMENDMENT B

TO: HB 71 (26-LS0289\P)

BY REPRESENTATIVE HOLMES

1 Page 3, line 14

2 After "criteria":

3 Insert "and procedures for the collection, storage, access, distribution,

4 removal and disposal of directives from the registry"

AMENDMENT A

TO: HB 71 (26-LS0289P)

BY REPRESENTATIVE HOLMES

1 Page 2, line 29 & 30

2 After "registry":

3 Delete "and return it to the individual who made the directive"

4 Page 3, line 4

5 After "file"

6 Delete ", return,"



REPRESENTATIVE LINDSEY HOLMES

HOUSE DISTRICT 26

House Bill 71 Sponsor Statement

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

An advance health care directive is a document that allows a person to designate what health care they wish to receive and who can make medical decisions for them in the case that they are incapacitated. Alaska Statute 13.52.010 provides that anyone may fill out an advance health care directive, but it does not provide a system to store and access these important documents.

Medical emergencies can occur at any place at any time. A person may be on vacation and not have a copy of their advance health care directive with them, or family members may simply be too distraught to remember or find a copy of the directive. In cases like these, medical professionals and family members need an effective tool to locate and access information on a patient's health care wishes.

House Bill 71 would establish a voluntary registry of advance health care directives for the State of Alaska. The registry would be strictly voluntary—no person would ever be required to submit his or her advance health care directive to the registry, and directives not filed with the registry would remain every bit as valid. Other features of the registry include:

- Hospitals and similar health care facilities would have 24-hour online access to their patients' records in case of emergencies.
- A person or his or her agent, guardian or surrogate would be able to request copies of their directive.
- The Department of Health and Social Services would be able to charge modest fees to pay for administrative costs of the registry.
- All advance health care directives in the registry would be confidential.
- An individual could update or remove his or her advance health care directive from the registry at any time.

A number of other states already use an advance health care directive registry to ensure that patients' wishes are available to guide the decisions of doctors and loved ones during medical emergencies.

Please join me in helping to ensure that Alaskans' medical decisions are respected by supporting this legislation.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 23, 2009

SUBJECT: Sectional summary of HB 71, a bill relating to a registry for advance health care directives (Work Order No. 26-LS0289\E)

TO: Representative Lindsey Holmes
Attn: James Waldo

FROM: *JB*
Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Protects a health care facility from civil or criminal liability for two listed types of actions related to the directive registry.

Section 2. Allows a hospital to make a reasonable search of the directive registry when the hospital refers an individual at or near death to a procurement organization.

Section 3. Makes a procurement organization's access to the department's records subject to the new directive registry provisions.

Section 4. This is the main authorizing section for the directive registry. Directs the department to maintain a registry for advance health care directives. Allows individuals to place their directives in the registry. Makes the registry confidential and indicates when the department may release information from the registry. Directs the department to make the registry accessible for viewing on the Internet 24 hours a day to a health care facility for the facility's patients. States that the department is not required to review a directive for validity or compliance with law before placing it in the registry. Directs the department to remove a directive from the registry and return it to the maker when requested by the maker or an agent, guardian, or surrogate of the maker. Requires the department to review the registry every five years and to remove directives of individuals deceased for six months or more. Provides that not filing a directive does not affect the directive's validity. Provides that failing to tell the department about a revocation does not affect the revocation. Allows the department to charge certain fees to implement the section. Directs the department to adopt regulations about identification procedures and requirements to protect the security of the registry.

If I may be of further assistance, please advise.

TLB:ljw
09-040.ljw

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MEMORANDUM

April 15, 2009

SUBJECT: CSHB 71(HSS) relating to a registry for advance health care directives (Work Order No. 26-LS0289\C)

TO: Representative Wes Keller
Co-Chair of the House Health and Social Services Committee
Attn: Matthew Johnson

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above. This bill incorporates amendments made by the committee. I recommend that certain adjustments be made to the amendments to carry out the intent of the amendments and that two corrections be made to the language that was in the version that the committee considered. Since this bill has passed out of your committee, would you please pass these comments along to the next committee of referral?

1. Corrections. On page 2, "health care facility" should be replaced with "hospital" on both lines 24 and 25 because sec. 13.52.310(d) is limited to hospitals.
2. First adjustment. In sec. 13.52.310(f), on page 2 of the bill, the phrase "who made the directive" needs to be added after "individual" to indicate which individual can request the removal.
3. Second adjustment. In sec. 13.52.310(j), on page 3, the added language needs to be changed to avoid using "from the registry" for all of the listed preceding items. The language could read "and procedures for the collection of, storage of, access to, and distribution of directives in the registry and the removal and disposal of directives from the registry." Right now each item hinges on "from the registry," which doesn't completely work. For example, you would not say "storage from the registry."

If I may be of further assistance, please advise.

TLB:ljw
09-255.ljw

Enclosure

**Representative
Lindsey Holmes**

Capitol Room 405
465-4919
465-2137 fax



MEMORANDUM

Date: 26 January 2009

To: Representative Wes Keller and Representative Bob Herron,
Co-Chairs for House Health and Social Services Committee

From: James R. Waldo, staff to Representative Holmes

RE: State agencies affected by HB 71: Advance Health Care Directives Registry

The state Department of Health and Social Services is the only state department that would be affected by the passage of HB 71.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB071
 () Publish Date: _____

Identifier (file name): HB071-DHSS-02-22-09 Dept. Affected: Health & Social Services
 Title Advance Health Care Directives Registry RDU Public Health
 Sponsor Holmes Component Injury Prevention and Emergency
 Requester House HSS Component Number 2876
 Medical Services

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services	156.1		156.1	156.1	156.1	156.1	156.1	156.1
Travel	5.0		20.0	5.0	5.0	5.0	5.0	5.0
Contractual	50.0		50.0	50.0	50.0	50.0	50.0	50.0
Supplies	1.5		1.5	1.5	1.5	1.5	1.5	1.5
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	212.6	0.0	227.6	212.6	212.6	212.6	212.6	212.6

CAPITAL EXPENDITURES	300.0							
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CHANGE IN REVENUES (
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF	512.6		227.6	212.6	212.6	212.6	212.6	212.6
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	512.6	0.0	227.6	212.6	212.6	212.6	212.6	212.6

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time	2.0		2	2	2	2	2
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

The bill is intended to more effectively honor and implement an individual's advance health care directive by creating a central registry for access by health care providers and procurement organizations. Information Technology Business Applications staff estimate that development of the registry, either by the state or a third party vendor, will require an estimated capital expenditure of \$250K with an additional \$50K to develop an interface with the Bureau of Vital Statistics. Two FTE personnel will be required to enter the documents into the registry and provide access to the information: Public Health Specialist II (R20, step C) at \$100K and an Administrative Clerk III (R10, step C) at \$56.1K. Work stations, lease, phone service, etc. is estimated to be \$19K for the 2 employees. An additional contractual expenditure is system maintenance (10%), or \$25K per year. Training expenditures for hospital and other personnel to access the registry is estimated at \$6K per year, with a one-time travel increase in FY2011 to train hospital personnel. Supplies are estimated at \$1.5K per year. The fund source amount includes the total anticipated operating and capital expenditures.

Prepared by: Beverly Wooley, Director Phone 465-4079
 Division Public Health Date/Time 2/2/09 12:00 AM

Approved by: Alison Elgee, Assistant Commissioner Date 2/22/2009
DHSS Finance Management Services

DRAFT

26G-1
(1/22/2009)
(1:46 pm)

AMENDMENT

OFFERED IN THE HOUSE HEALTH AND
SOCIAL SERVICES COMMITTEE
TO: HB 71

BY _____

1 Page 3, following line 14:

2 Insert:

3 "(k) The department and its employces are not liable for civil damages as a result
4 of an act or omission in the establishment or maintenance of the registry."

5

6 Page 3, line 15:

7 Delete "(k)"

8 Insert "(l)"



AARP Alaska
3601 C Street
Suite 1420
Anchorage, AK 99503

T 1-866-227-7447
F 907-341-2270
TTY 1-877-434-7598
www.aarp.org/ak

March 31, 2009

The Honorable Wes Keller, Co-Chair
House Health and Social Services Committee
Alaska Capitol, Room 13
Juneau, AK 99801-1182

The Honorable Bob Herron, Co-Chair
House Health and Social Services Committee
Alaska Capitol, Room 415
Juneau, AK 99801-1182

RE: HB 71 (Holmes, Dahlstrom, Millett, Kawasaki)—Support

Dear Co-Chairs Keller and Herron:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the House Health and Social Services Committee to support HB 71, authored by your Committee colleague Representative Lindsey Holmes and Representatives Nancy Dahlstrom, Charisse Millett, and Scott Kawasaki.

AARP encourages our 97,000 members in Alaska to prepare advance health care directives and to discuss their wishes with their family.

Unfortunately, all too often a serious illness or accident may strike when an individual does not have their directives on their person. It is also not uncommon for someone to arrive at a hospital and be unable to speak and express their wishes. This often results in a health care provider being unable to discern or to follow the preferences of a patient.

HB 71 would help alleviate this situation. HB 71 would establish a voluntary registry for health care directives which could be accessed by health care providers in time of need.

HB 71 offers everything we could ask for:

- Voluntary
- Confidential
- Available on a 24 hour basis
- Inexpensive
- Available for updating if the individual so chooses

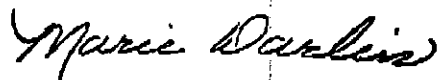
If passed, AARP Alaska will encourage every one of our members to participate in the registry and to encourage their younger family members to do likewise.

AARP urges an "AYE" vote on HB 71.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,



Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Representative John Coghill
Representative Bob Lynn
Representative Paul Seaton
Representative Sharon Cissna
Representative Lindsey Holmes
Representative Nancy Dahlstrom
Representative Charisse Millett
Representative Scott Kawasaki