H-3169.1

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**SECOND SUBSTITUTE HOUSE BILL 2166**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Paul and Shavers)

AN ACT Relating to increasing access to portable orders for life-sustaining treatment; amending RCW 43.70.480 and 70.122.130; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 43.70.480 and 2000 c 70 s 1 are each amended to read as follows:

(1)(a) The department of health shall adopt guidelines and protocols for how emergency medical personnel shall respond when summoned to the site of an injury or illness for the treatment of a person who has signed a written directive or durable power of attorney requesting that he or she not receive futile emergency medical treatment.

(b) The guidelines shall include the development of a simple form to record a person's preferences, known as "portable orders for life-sustaining treatment" that shall be used statewide. The form must include an option for the individual to opt out of their provider submitting their form to the registry created by this section.

(c)(i) In addition to the simple form developed pursuant to (b) of this subsection, the department shall establish guidelines and protocols for emergency medical personnel to recognize types of alternative evidence that a person has executed the portable orders for life-sustaining treatment form and that the person does not wish to have resuscitative efforts, including a standardized necklace, bracelet, physical card, or electronic application-based form.

(ii) The department shall adopt standards for the endorsement of types of alternative evidence of the execution of a portable orders for life-sustaining treatment form for persons that do not wish to have resuscitative efforts. The standards must require that the alternative evidence only be issued upon the presentation of a properly executed portable orders for life-sustaining treatment form to the entity producing the alternative evidence. The standards must require that the alternative evidence include the person's name, the person's date of birth, and "WA DNR" or "WA Do Not Resuscitate." The department shall maintain a registry of entities that have received an endorsement of their types of alternative evidence and that have committed to reviewing a person's portable orders for life-sustaining treatment form prior to issuing the alternative evidence.

(iii) The department shall inform the public of the types of alternative evidence that meet the endorsement standards through its website and informational materials to be made available to relevant partners in the community. The public information shall identify entities that are registered as producers of endorsed types of alternative evidence and contact information for those entities.

(2)(a) The department shall establish and maintain a statewide registry containing the portable orders for life-sustaining treatment forms received pursuant to (b) of this subsection as submitted by health care providers and residents of Washington. The department shall digitally reproduce and store portable orders for life-sustaining treatment forms in the registry. The department shall establish standards for physicians, physician assistants, advanced registered nurse practitioners, their agents and employees, individuals, and personal representatives to submit digitally reproduced portable orders for life-sustaining treatment forms directly to the registry. The department shall collaborate with health care providers and individuals to establish best practices for health care providers that sign portable orders for life-sustaining treatment forms to discuss with individuals if the form should be submitted to the registry and how the form will be submitted. The department shall review the portable orders for life-sustaining treatment forms that it receives to ensure they comply with the applicable statutory and regulatory requirements. The department may contract with an organization that meets the standards identified in this section.

(b)(i) A physician, physician assistant, or advanced registered nurse practitioner that signs a completed portable orders for life-sustaining treatment form, or their agent or employee, may submit the form to the department or registry consistent with the standards adopted by the department under this section on the individual's behalf, unless the individual has opted out of submitting the form to the registry.

(ii) An individual or an individual's personal representative may submit a portable orders for life-sustaining treatment form that meets the standards established under subsection (1) of this section to the department to be digitally reproduced and stored in the registry.

(iii) Failure to submit a portable orders for life-sustaining treatment form to the department does not affect the validity of the form.

(iv) Failure to notify the department of a valid revocation of a portable orders for life-sustaining treatment form does not affect the validity of the revocation.

(v) The entry of a portable orders for life-sustaining treatment form in the registry under this section does not:

(A) Affect the validity of the portable orders for life-sustaining treatment form;

(B) Take the place of any requirements in law necessary to make the submitted portable orders for life-sustaining treatment form legal; or

(C) Create a presumption regarding the validity of the portable orders for life-sustaining treatment form.

(c) The department shall prescribe a procedure for an individual to revoke a portable orders for life-sustaining treatment form contained in the registry.

(d) The registry must:

(i) Be maintained in a secure database that is accessible through a website maintained by the department or its contractor;

(ii) Provide each individual that has a portable orders for life-sustaining treatment form submitted to the registry with a registration number;

(iii) Send annual notices by mail or electronic message to individuals that have a portable orders for life-sustaining treatment form in the registry to request that they review the registry materials to ensure that they are current;

(iv) Provide individuals that have a portable orders for life-sustaining treatment form in the registry with access to their forms and the ability to revoke their forms at all times; and

(v) Provide the personal representatives of individuals that have a portable orders for life-sustaining treatment form in the registry, attending physicians, physician assistants, advanced registered nurse practitioners, health care providers licensed by a disciplining authority identified in RCW 18.130.040 who is acting under the direction of a physician, physician assistant, or an advanced registered nurse practitioner, including a physician's trained advanced emergency medical technician and paramedic certified under chapter 18.71 RCW and emergency medical technician certified under chapter 18.73 RCW, and health care facilities, as defined in this chapter or in chapter 71.32 RCW, access to the registry at all times.

(e) In designing the registry and website, the department shall ensure compliance with state and federal requirements related to patient confidentiality.

(f) The department may accept donations, grants, gifts, or other forms of voluntary contributions to support activities related to the creation and maintenance of the registry and statewide public education campaigns related to the existence of the registry. All receipts from donations made under this section, and other contributions and appropriations specifically made for the purposes of creating and maintaining the registry established under this section and statewide public education campaigns related to the existence of the registry, shall be deposited into the general fund. These moneys in the general fund may be spent only after appropriation.

(g) The department may adopt rules as necessary to implement this section.

**Sec.**  RCW 70.122.130 and 2016 c 209 s 406 are each amended to read as follows:

(1) The department of health shall establish and maintain a statewide health care declarations registry containing the health care declarations identified in subsection (2) of this section as submitted by residents of Washington. The department shall digitally reproduce and store health care declarations in the registry. The department may establish standards for individuals to submit digitally reproduced health care declarations directly to the registry, but is not required to review the health care declarations that it receives to ensure they comply with the particular statutory requirements applicable to the document. The department may contract with an organization that meets the standards identified in this section.

(2)(a) An individual may submit any of the following health care declarations to the department of health to be digitally reproduced and stored in the registry:

(i) A directive, as defined by this chapter;

(ii) A durable power of attorney for health care, as authorized in chapter 11.125 RCW; or

(iii) A mental health advance directive, as defined by chapter 71.32 RCW((~~; or~~

~~(iv) A form adopted pursuant to the department of health's authority in RCW 43.70.480~~)).

(b) Failure to submit a health care declaration to the department of health does not affect the validity of the declaration.

(c) Failure to notify the department of health of a valid revocation of a health care declaration does not affect the validity of the revocation.

(d) The entry of a health care directive in the registry under this section does not:

(i) Affect the validity of the document;

(ii) Take the place of any requirements in law necessary to make the submitted document legal; or

(iii) Create a presumption regarding the validity of the document.

(3) The department of health shall prescribe a procedure for an individual to revoke a health care declaration contained in the registry.

(4) The registry must:

(a) Be maintained in a secure database that is accessible through a website maintained by the department of health;

(b) Send annual electronic messages to individuals that have submitted health care declarations to request that they review the registry materials to ensure that it is current;

(c) Provide individuals who have submitted one or more health care declarations with access to their documents and the ability to revoke their documents at all times; and

(d) Provide the personal representatives of individuals who have submitted one or more health care declarations to the registry, attending physicians, advanced registered nurse practitioners, health care providers licensed by a disciplining authority identified in RCW 18.130.040 who is acting under the direction of a physician or an advanced registered nurse practitioner, and health care facilities, as defined in this chapter or in chapter 71.32 RCW, access to the registry at all times.

(5) In designing the registry and website, the department of health shall ensure compliance with state and federal requirements related to patient confidentiality.

(6) The department shall provide information to health care providers and health care facilities on the registry website regarding the different federal and Washington state requirements to ascertain and document whether a patient has an advance directive.

(7) The department of health may accept donations, grants, gifts, or other forms of voluntary contributions to support activities related to the creation and maintenance of the health care declarations registry and statewide public education campaigns related to the existence of the registry. All receipts from donations made under this section, and other contributions and appropriations specifically made for the purposes of creating and maintaining the registry established under this section and statewide public education campaigns related to the existence of the registry, shall be deposited into the general fund. These moneys in the general fund may be spent only after appropriation.

(8) The department of health may adopt rules as necessary to implement chapter 108, Laws of 2006.

(9) By December 1, 2008, the department shall report to the house and senate committees on health care the following information:

(a) Number of participants in the registry;

(b) Number of health care declarations submitted by type of declaration as defined in this section;

(c) Number of health care declarations revoked and the method of revocation;

(d) Number of providers and facilities, by type, that have been provided access to the registry;

(e) Actual costs of operation of the registry.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, in the omnibus appropriations act, this act is null and void.

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