
SUBSTITUTE HOUSE BILL 2166

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

By House Health Care & Wellness (originally sponsored by Representatives Paul and Shavers)

READ FIRST TIME 01/29/24.

1 AN ACT Relating to increasing access to portable orders for life-
2 sustaining treatment; amending RCW 43.70.480 and 70.122.130; adding a
3 new section to chapter 18.57 RCW; adding a new section to chapter
4 18.71 RCW; adding a new section to chapter 18.71A RCW; and adding a
5 new section to chapter 18.79 RCW.

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

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

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

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

20 (c)(i) In addition to the simple form developed pursuant to (b)
21 of this subsection, the department shall establish guidelines and

1 protocols for emergency medical personnel to recognize types of
2 alternative evidence that a person has executed the portable orders
3 for life-sustaining treatment form and that the person does not wish
4 to have resuscitative efforts, including a standardized necklace,
5 bracelet, physical card, or electronic application-based form.

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

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

25 (2)(a) The department shall establish and maintain a statewide
26 registry containing the portable orders for life-sustaining treatment
27 forms received pursuant to (b) of this subsection as submitted by
28 health care providers and residents of Washington. The department
29 shall digitally reproduce and store portable orders for life-
30 sustaining treatment forms in the registry. The department shall
31 establish standards for physicians, physician assistants, advanced
32 registered nurse practitioners, and individuals to submit digitally
33 reproduced portable orders for life-sustaining treatment forms
34 directly to the registry. The department shall review the portable
35 orders for life-sustaining treatment forms that it receives to ensure
36 they comply with the applicable statutory and regulatory
37 requirements. The department may contract with an organization that
38 meets the standards identified in this section.

39 (b)(i) A physician, physician assistant, or advanced registered
40 nurse practitioner that signs a completed portable orders for life-

1 sustaining treatment form shall submit the form to the department or
2 registry consistent with the standards adopted by the department
3 under this section on the individual's behalf, unless the individual
4 has opted out of submitting the form to the registry.

5 (ii) An individual may submit a portable orders for life-
6 sustaining treatment form that meets the standards established under
7 subsection (1) of this section to the department to be digitally
8 reproduced and stored in the registry.

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

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

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

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

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

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

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

27 (d) The registry must:

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

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

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

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

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

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

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

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

28 NEW SECTION. Sec. 2. A new section is added to chapter 18.57
29 RCW to read as follows:

30 An osteopathic physician and surgeon licensed under this chapter
31 shall submit all completed and signed portable orders for life-
32 sustaining treatment forms signed by the osteopathic physician and
33 surgeon to the registry created in RCW 43.70.480, unless the patient
34 has opted out of the submission.

35 NEW SECTION. Sec. 3. A new section is added to chapter 18.71
36 RCW to read as follows:

37 A physician licensed under this chapter shall submit all
38 completed and signed portable orders for life-sustaining treatment

1 forms signed by the physician to the registry created in RCW
2 43.70.480, unless the patient has opted out of the submission.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.71A
4 RCW to read as follows:

5 A physician assistant licensed under this chapter shall submit
6 all completed and signed portable orders for life-sustaining
7 treatment forms signed by the physician assistant to the registry
8 created in RCW 43.70.480, unless the patient has opted out of the
9 submission.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.79
11 RCW to read as follows:

12 An advanced registered nurse practitioner licensed under this
13 chapter shall submit all completed and signed portable orders for
14 life-sustaining treatment forms signed by the advanced registered
15 nurse practitioner to the registry created in RCW 43.70.480, unless
16 the patient has opted out of the submission.

17 **Sec. 6.** RCW 70.122.130 and 2016 c 209 s 406 are each amended to
18 read as follows:

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

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

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

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

1 (iii) A mental health advance directive, as defined by chapter
2 71.32 RCW (~~or~~
3 ~~(iv) A form adopted pursuant to the department of health's~~
4 ~~authority in RCW 43.70.480~~)).
5 (b) Failure to submit a health care declaration to the department
6 of health does not affect the validity of the declaration.
7 (c) Failure to notify the department of health of a valid
8 revocation of a health care declaration does not affect the validity
9 of the revocation.
10 (d) The entry of a health care directive in the registry under
11 this section does not:
12 (i) Affect the validity of the document;
13 (ii) Take the place of any requirements in law necessary to make
14 the submitted document legal; or
15 (iii) Create a presumption regarding the validity of the
16 document.
17 (3) The department of health shall prescribe a procedure for an
18 individual to revoke a health care declaration contained in the
19 registry.
20 (4) The registry must:
21 (a) Be maintained in a secure database that is accessible through
22 a website maintained by the department of health;
23 (b) Send annual electronic messages to individuals that have
24 submitted health care declarations to request that they review the
25 registry materials to ensure that it is current;
26 (c) Provide individuals who have submitted one or more health
27 care declarations with access to their documents and the ability to
28 revoke their documents at all times; and
29 (d) Provide the personal representatives of individuals who have
30 submitted one or more health care declarations to the registry,
31 attending physicians, advanced registered nurse practitioners, health
32 care providers licensed by a disciplining authority identified in RCW
33 18.130.040 who is acting under the direction of a physician or an
34 advanced registered nurse practitioner, and health care facilities,
35 as defined in this chapter or in chapter 71.32 RCW, access to the
36 registry at all times.
37 (5) In designing the registry and website, the department of
38 health shall ensure compliance with state and federal requirements
39 related to patient confidentiality.

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

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

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

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

20 (a) Number of participants in the registry;

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

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

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

27 (e) Actual costs of operation of the registry.

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