

Health Care Directives Registry

This Act:

- Authorizes the Secretary of State, subject to the availability of funding, to establish and maintain an online health care directives registry;
- Requires the registry to be accessible through a web site maintained by the Secretary of State;
- Establishes that failure to register a health care directive with the Secretary of State does not affect the validity of a health care directive;
- Stipulates filing requirements for the registry may include the following notarized or witnessed documents and any notarized or witnessed revocations of these documents:
 - A. A health care power of attorney;
 - B. A living will; or
 - C. A mental health care power of attorney.
- Stipulates that the Secretary of State is not required to review documents submitted to ensure compliance with state law;
- Requires people who submit a document for registration to provide a return address and submit any fee prescribed by the Secretary of State for the registry;
- Establishes that failure to notify the Secretary of the revocation of a document does not affect the validity of a health care directive;
- Establishes a process by which health care directives submitted are reviewed for accuracy by the people submitting them;
- Stipulates that entries may only be activated upon confirmation of accuracy;
- Requires the Secretary of State to assign registrants a unique file number and password upon receipt of a completed registration form;
- Requires the Secretary of State to provide registrants with a card that identifies their file number and password;
- Establishes that online health care directives are only accessible by entering the file number and password on the Internet web site;
- Declares health care directives are confidential and shall not be disclosed to anyone other than the person who submitted the document or the person's personal representative;
- Requires the Secretary of State to delete a document filed when the Secretary receives revocation of a document along with that document's file number and password;
- Prohibits the Secretary from using information contained in submitted documents for any other purpose;
- Requires the Secretary of State to purge documents from the registry every five years in order to eliminate documents of people who have passed away;
- Instructs the director of state department of health services to share registry of death certificates with the Secretary of State for purging purposes;
- Prohibits the legislature from appropriating or transferring general fund monies or other state monies to support, promote and maintain the registry;
- Establishes a Health Care Directives Registry Fund consisting of monies received by the Secretary for operation of the registry;
- Allows the Secretary of State to accept gifts, grants, donations, bequests and contributions to support, maintain and promote the registry;

- Requires the Secretary to use fund monies to support, promote and maintain the registry;
- Directs that the Secretary shall administer the fund, and the monies in the fund are continuously appropriated;
- Requires the State Treasurer, upon notice of the Secretary of State, to invest and divest monies in the fund; monies earned from investment shall be credited to the fund;
- Stipulates that health care providers are not required to request information from the registry about whether the patient has executed a health care directive;
- Stipulates that this Act does not affect the duty of the health care providers to provide information to a patient regarding health care directives;
- Clarifies that health care providers may access the registry for the purpose of providing care if the provider has the patient’s password and file number;
- Stipulates that a health care provider who relies in good faith on a health care directive filed with the registry is immune from liability;
- Allows the Secretary, upon request of the person who submitted a document, to transmit health care directive information to the registry system of another jurisdiction; and
- Exempts the state from civil liability (except for acts of gross negligence, willful misconduct or intentional wrongdoing) for any claims or demands arising out of the administration and operation of the registry.

Submitted as:

Arizona

Chapter 219 of 2004

Status: Enacted into law in 2004.

Suggested State Legislation

1 Section 1. [*Short Title.*] This Act may be cited as “An Act to Establish a Registry of
2 Health Care Directives.”

3
4 Section 2. [*Establishing a Health Care Directives Registry.*]

5 A. Subject to the availability of monies, the [secretary of state] shall establish and
6 maintain a Health Care Directives Registry.

7 B. The registry shall be accessible through a web site maintained by the [secretary of
8 state].

9 C. The [secretary of state] may accept gifts, grants, donations, bequests and other forms
10 of voluntary contributions to support, promote and maintain the registry. The [legislature or the
11 secretary of state] shall not appropriate or transfer state general fund or other state monies to
12 support, promote and maintain the registry.

13
14 Section 3. [*Filing Requirements.*]

15 A. A person may submit to the [secretary of state], in a form prescribed by the [secretary
16 of state], the following documents and any revocations of these documents for registration:

17 1. a health care power of attorney.

18 2. a living will.

19 3. a mental health care power of attorney.

20
21 B. The person who submits a document for registration pursuant to this section must
22 provide a return address.

23 C. Documents submitted pursuant to this section must be notarized or witnessed as
24 prescribed by this Act.

25
26 Section 4. *[Effect of Nonregistration or Revocation.]*

27 A. Failure to register a document with the [secretary of state pursuant] to this Act does
28 not affect the validity of a health care directive.

29 B. Failure to notify the [secretary of state] of the revocation of a document filed pursuant
30 to this Act does not affect the validity of a revocation that otherwise meets the requirements for a
31 revocation pursuant to this Act.

32
33 Section 5. *[Registration; Purge of Registered Documents.]*

34 A. On receipt of a completed registration form, the [secretary of state] shall create a
35 digital reproduction of the form, enter the reproduced form into the health care directives registry
36 database and assign each registration a unique file number and password.

37 B. The [secretary of state] is not required to review a document to ensure that it complies
38 with the particular statutory requirements applicable to the document.

39 C. After entering the reproduced document into the registry database, the [secretary of
40 state] shall return the original document to the person who submitted the document and provide
41 that person with a printed record of the information entered into the database under the file
42 number and a wallet size card that contains the document's file number and a password.

43 D. The person who submitted the document shall review the printed record. If the
44 information is accurate, the person shall check the box marked "no corrections required" and
45 sign and return the printed record to the [secretary of state].

46 E. If the person who submitted the document determines that the printed record is
47 inaccurate, the person shall correct the information and sign and return the corrected printed
48 record to the [secretary of state]. On receipt of a corrected printed record, the [secretary of state]
49 shall make the proper corrections and send a corrected printed record to the person who
50 submitted the document. If the information is accurate, the person shall check the box marked
51 "no corrections required" and sign and return the printed record to the [secretary of state's
52 office].

53 F. The [secretary of state] shall activate the entry into the Health Care Directives
54 Registry Database only after receiving a printed record marked "no corrections required."

55 G. The [secretary of state] shall delete a document filed with the registry pursuant to this
56 section when the [secretary of state] receives a revocation of a document along with that
57 document's file number and password.

58 H. The entry of a document pursuant to this Act does not:

- 59 1. affect the validity of the document.
60 2. relate to the accuracy of information contained in the document.
61 3. create a presumption regarding the validity of the document or the accuracy of
62 information contained in the document.

63 I. The [secretary of state] shall purge a document filed with the registry on verification
64 by the [director of the department of health services] of the death of the person who submitted
65 the document. The [secretary of state] shall purge the registry of documents pursuant to this
66 subsection at least once every [five years]. The [director of the department of health services]
67 shall share its registry of death certificates with the [secretary of state] in order to conduct the
68 document purge required by this subsection.

69
70 Section 6. *[Registry Information; Confidentiality; Transfer of Information.]*

71 A. The registry established pursuant to this Act is accessible only by entering the file
72 number and password on the Internet web site.

73 B. Registrations, file numbers, passwords and any other information maintained by the
74 [secretary of state] pursuant to this Act are confidential and shall not be disclosed to any person
75 other than the person who submitted the document or the person's personal representative.

76 C. Notwithstanding subsection B, a health care provider may access the registry and
77 receive a patient's health care directive documents for the provision of health care services by
78 submitting the patient's file number and password.

79 D. The [secretary of state] shall use information contained in the registry only for
80 purposes prescribed in this Act.

81 E. At the request of a person who submitted the document, the [secretary of state] may
82 transmit the information received regarding the health care directive to the registry system of
83 another jurisdiction as identified by the person.

84
85 Section 7. [*Liability; Limitation.*]

86 A. Except for acts of gross negligence, willful misconduct or intentional wrongdoing,
87 this state is not subject to civil liability for any claims or demands arising out of the
88 administration or operation of the registry established pursuant to this Act.

89 B. This Act does not require a health care provider to request from the registry
90 information about whether a patient has executed a health care directive. A health care provider
91 who makes good faith health care decisions in reliance on the provisions of an apparently
92 genuine health care directive received from the registry is immune from criminal and civil
93 liability to the same extent and under the same conditions as prescribed in [insert citation].

94 C. This Act does not affect the duty of a health care provider to provide information to a
95 patient regarding health care directives pursuant to federal law.

96
97 Section 8. [*Health Care Directives Registry Fund.*]

98 A. The [Health Care Directives Registry Fund] is established consisting of monies
99 received pursuant to this Act. The [secretary of state] shall administer the fund. Monies in the
100 fund are continuously appropriated.

101 B. On notice from the [secretary of state], the [state treasurer] shall invest and divest
102 monies in the fund as provided by [insert citation], and monies earned from investment shall be
103 credited to the fund.

104 C. The [secretary of state] shall use fund monies to support, promote and maintain the
105 registry.

106 D. Fund monies shall not include monies appropriated from the state [General Fund].

107
108 Section 9. [*Severability.*] [Insert severability clause.]

109
110 Section 10. [*Repealer.*] [Insert repealer clause.]

111
112 Section 11. [*Effective Date.*] [Insert effective date.]