

SENATE BILL 48

J1, J5
SB 837/21 – FIN

(PRE-FILED)

2lr1056
CF HB 14

By: **Senator Kramer**

Requested: October 29, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Advance Care Planning and Advance Directives**

3 FOR the purpose of requiring the Maryland Health Care Commission to coordinate the
4 implementation of advance care planning programs in the State; requiring each
5 health insurance carrier to offer electronic advance directives to its members and
6 enrollees at certain times and make arrangements to receive certain notifications;
7 authorizing a health insurance carrier to contract with an electronic advance
8 directives service under certain circumstances; and generally relating to advance
9 care planning and advance directives.

10 BY adding to

11 Article – Health – General
12 Section 19–145
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Insurance
17 Section 15–122.1
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2021 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That the Laws of Maryland read as follows:

22 **Article – Health – General**

23 **19–145.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(2) “ADVANCE CARE PLANNING” MEANS A PROCESS THROUGH WHICH**
4 **AN INDIVIDUAL CONSIDERS AND DOCUMENTS IN A FORMAL MANNER THE**
5 **INDIVIDUAL’S PREFERENCES FOR THE RECEIPT OF HEALTH CARE, INCLUDING**
6 **THROUGH THE USE OF AN ADVANCE DIRECTIVE.**

7 **(3) “ADVANCE DIRECTIVE” HAS THE MEANING STATED IN § 5–601 OF**
8 **THIS ARTICLE.**

9 **(4) “HEALTH SYSTEM” MEANS:**

10 **(I) A PARENT CORPORATION OF ONE OR MORE HOSPITALS AND**
11 **ANY ENTITY AFFILIATED WITH THE PARENT CORPORATION THROUGH OWNERSHIP,**
12 **GOVERNANCE, MEMBERSHIP, OR OTHER MEANS; OR**

13 **(II) A HOSPITAL AND ANY ENTITY AFFILIATED WITH THE**
14 **HOSPITAL THROUGH OWNERSHIP, GOVERNANCE, MEMBERSHIP, OR OTHER MEANS.**

15 **(B) (1) THE COMMISSION SHALL COORDINATE THE IMPLEMENTATION OF**
16 **ADVANCE CARE PLANNING PROGRAMS IN THE STATE.**

17 **(2) THE COORDINATION PROVIDED BY THE COMMISSION UNDER THIS**
18 **SUBSECTION SHALL INCLUDE:**

19 **(I) ADOPTION AND IMPLEMENTATION OF MEASURES**
20 **REQUIRING THAT ACTIONS BE TAKEN BY HEALTH SYSTEMS AND HEALTH CARE**
21 **PROVIDERS TO ENCOURAGE INDIVIDUALS TO UPLOAD, CREATE, UPDATE, AND MAKE**
22 **ACCESSIBLE ELECTRONIC ADVANCE CARE PLANNING DOCUMENTS THROUGH:**

23 **1. THE USE OF AN ELECTRONIC ADVANCE DIRECTIVE**
24 **SERVICE RECOGNIZED BY THE COMMISSION UNDER § 19–144 OF THIS SUBTITLE;**
25 **AND**

26 **2. CONNECTION TO THE STATE–DESIGNATED HEALTH**
27 **INFORMATION EXCHANGE; AND**

28 **(II) DEVELOPMENT AND IMPLEMENTATION OF QUALITY**
29 **METRICS FOR THE ADOPTION AND USE OF PROCESSES AND TOOLS BY HEALTH CARE**
30 **SYSTEMS AND HEALTH CARE PROVIDERS TO FACILITATE ADVANCE CARE PLANNING**
31 **BY INDIVIDUALS.**

1 15-122.1.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Advance directive" has the meaning stated in § 5-601 of the Health –
4 General Article.

5 (3) (i) "Carrier" means:

6 1. an insurer;

7 2. a nonprofit health service plan;

8 3. a health maintenance organization; and

9 4. any other person that provides health benefit plans
10 subject to regulation by the State.

11 (ii) "Carrier" does not include a managed care organization.

12 (b) A carrier shall provide the advance directive information sheet developed
13 under § 5-615 of the Health – General Article:

14 (1) in the carrier's member publications;

15 (2) if the carrier maintains a Web site on the Internet, on the carrier's Web
16 site; and

17 (3) at the request of a member.

18 **(C) EACH CARRIER SHALL:**

19 **(1) OFFER ELECTRONIC ADVANCE DIRECTIVES TO ITS MEMBERS OR**
20 **ENROLLEES DURING OPEN ENROLLMENT AND PERIODICALLY THEREAFTER; AND**

21 **(2) MAKE ARRANGEMENTS TO RECEIVE STATUS NOTIFICATIONS AS TO**
22 **WHETHER MEMBERS OR ENROLLEES OF THE CARRIER HAVE COMPLETED OR**
23 **UPDATED AN ADVANCE DIRECTIVE.**

24 **(D) A CARRIER MAY CONTRACT WITH AN ELECTRONIC ADVANCE**
25 **DIRECTIVES SERVICE IF THE SERVICE:**

26 **(1) IS APPROVED BY THE MARYLAND HEALTH CARE COMMISSION;**
27 **AND**

1 **(2) MEETS THE TECHNOLOGY, SECURITY, AND PRIVACY STANDARDS**
2 **SET BY THE MARYLAND HEALTH CARE COMMISSION.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That:

4 (a) On or before December 1, 2022, the Motor Vehicle Administration shall submit
5 a report to the Senate Finance Committee and the House Health and Government
6 Operations Committee, in accordance with § 2–1257 of the State Government Article, that
7 provides an update on the status of implementing the requirements of § 12–303.1 of the
8 Transportation Article relating to advance directives.

9 (b) The report required under this section shall include:

10 (1) a timeline for implementation of the requirements of § 12–303.1 of the
11 Transportation Article;

12 (2) identification of any obstacles to implementation of the requirements;
13 and

14 (3) measures being taken by the Motor Vehicle Administration to resolve
15 any identified obstacles and implement the requirements of § 12–303.1 of the
16 Transportation Article.

17 SECTION 3. AND BE IT FURTHER ENACTED, That § 15–122.1 of the Insurance
18 Article, as enacted by Section 1 of this Act, shall apply to all policies, contracts, and health
19 benefit plans issued, delivered, or renewed in the State on or after June 1, 2022.

20 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
21 1, 2022.