
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 541 Session of
2013

INTRODUCED BY LEACH, FONTANA, WASHINGTON, RAFFERTY, FERLO,
BROWNE, SCHWANK AND FARNESE, FEBRUARY 21, 2013

REFERRED TO JUDICIARY, FEBRUARY 21, 2013

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, in health care, further
3 providing for definitions, for legislative findings and
4 intent, for when living will operative, for revocation and
5 for authority of health care agent; providing for living will
6 and other advance health care directives registry; and making
7 editorial changes.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 5422 of Title 20 of the Pennsylvania
11 Consolidated Statutes is amended by adding a definition to read:

12 § 5422. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 * * *

17 "Department." The Department of Health of the Commonwealth.

18 * * *

19 Section 2. Section 5423(c) of Title 20 is amended by adding
20 a paragraph to read:

1 § 5423. Legislative findings and intent.

2 * * *

3 (c) Findings in general.--The General Assembly finds that:

4 * * *

5 (7) A registry of living wills and other advance health
6 care directives, accessible by all physicians, furthers a
7 competent adult's right to control medical decisions.

8 Section 3. Section 5443(a) of Title 20 is amended and the
9 section is amended by adding a subsection to read:

10 § 5443. When living will operative.

11 (a) When operative.--A living will becomes operative when:

12 (1) a copy is:

13 (i) provided to the attending physician; or

14 (ii) obtained from the registry established in

15 section 5466 (relating to living will and other advance
16 health care directives registry); and

17 (2) the principal is determined by the attending
18 physician to be incompetent and to have an end-stage medical
19 condition or to be permanently unconscious.

20 (a.1) Duty of attending physician.--An attending physician
21 shall make a reasonable effort to determine if a patient has
22 executed a living will and other advance health care directives.

23 An attending physician shall be presumed to have made a
24 reasonable effort if the physician has contacted the registry
25 established in section 5466.

26 * * *

27 Section 4. Sections 5444(c) and 5456(c)(6) of Title 20 are
28 amended to read:

29 § 5444. Revocation.

30 * * *

1 (c) Medical record.--The attending physician or other health
2 care provider shall make the revocation part of the medical
3 record of the principal and shall notify the department. Upon
4 notification of a revocation under this section, the department
5 shall record the revocation and remove the living will and other
6 advance health care directives from the registry established in
7 section 5466 (relating to living will and other advance health
8 care directives registry).

9 § 5456. Authority of health care agent.

10 * * *

11 (c) Health care decisions.--

12 * * *

13 (6) The [Department of Health] department shall ensure
14 as part of the licensure process that health care providers
15 under its jurisdiction have policies and procedures in place
16 to implement this subsection.

17 * * *

18 Section 5. Title 20 is amended by adding a section to read:
19 § 5466. Living will and other advance health care directives
20 registry.

21 (a) Registry.--The department shall establish a living will
22 and other advance health care directives registry containing the
23 information in any living will and other advance health care
24 directives submitted pursuant to subsection (b).

25 (b) Submission of living will and other advance health care
26 directives.--A principal may provide a living will and other
27 advance health care directives to the department for inclusion
28 in the living will and other advance health care directives
29 registry.

30 (c) Availability.--Information in the registry shall be made

1 available to attending physicians on a 24-hour basis, including
2 access by electronic means.

3 (d) Public access prohibited.--Information in the registry
4 shall be protected from public access, shall only be accessible
5 to physicians and shall not be subject to access under the act
6 of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
7 Law.

8 Section 6. The definition of "department" in section 5483 of
9 Title 20 is amended to read:

10 § 5483. Definitions.

11 The following words and phrases when used in this subchapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 ["Department." The Department of Health of the
15 Commonwealth.]

16 * * *

17 Section 7. This act shall take effect in 60 days.