

By Senator Jones

13-1525-04

See HB 1655

1 A bill to be entitled
2 An act relating to health care advance
3 directive and blood-type recordation; creating
4 s. 320.08049, F.S.; providing a fee for persons
5 participating in the health care advance
6 directive and blood-type registry; requiring
7 certain uses for funds generated by the fee;
8 amending s. 322.051, F.S.; providing a fee for
9 persons applying for an identification card who
10 choose to participate in the health care
11 advance directive and blood-type registry;
12 amending s. 322.08, F.S.; providing a fee for
13 persons applying for a driver's license who
14 choose to participate in the health care
15 advance directive and blood-type registry;
16 creating s. 765.3061, F.S.; requiring the
17 Agency for Health Care Administration and the
18 Department of Highway Safety and Motor Vehicles
19 to develop and implement a voluntary program
20 for health care advance directive and
21 blood-type recordation; requiring certain
22 health care employees to confirm a principal's
23 blood type; providing for noting an
24 individual's blood type and health care advance
25 directive relative to life-prolonging
26 procedures on the individual's driver's license
27 or identification card upon request; requiring
28 the Division of Driver Licenses offices to make
29 forms available to the public; requiring forms
30 to be accessible electronically on the
31 Internet; requiring certain forms to contain

1 certain information; requiring the department
2 to distribute certain forms for the indication
3 of health care directives and blood type;
4 providing a recordkeeping system; requiring the
5 agency to provide funds for certain supplies;
6 requiring the department to provide funds for
7 the recordkeeping system; creating s. 765.3062,
8 F.S.; establishing a health care advance
9 directive and blood-type registry; requiring
10 the department to collect data and provide
11 collected data to the agency for the registry;
12 requiring the registry to record certain health
13 care advance directive and blood-type
14 information; providing access to the registry
15 by certain persons; providing guidelines for
16 the processing of certain forms; providing
17 criteria for revocation or amendment of
18 registry information by certain individuals;
19 providing for recording certain documents with
20 the registry; providing criteria for certain
21 health care advance directives being submitted;
22 requiring the department and the agency to
23 develop and implement a living will registry;
24 creating s. 765.3063, F.S.; providing means to
25 amend or revoke a health care advance directive
26 or blood type from the registry; providing for
27 the responsibility of the principal to update
28 forms; providing standards for controlling
29 forms and recordings; creating s. 765.3064,
30 F.S.; providing certain health care employees
31 with civil and criminal immunity from acts

1 performed in conjunction with certain
2 information provided by the department;
3 expressing the sovereign immunity of the
4 agency, the department, and their employees
5 from criminal prosecution and civil liability
6 for certain acts or forms; creating s.
7 765.3065, F.S.; requiring the agency, subject
8 to the concurrence of the department, to
9 develop a continuing education program relating
10 to health care advance directives and the
11 health care advance directive and blood-type
12 registry; creating s. 765.3066, F.S.; providing
13 for appointment of an education panel to create
14 an end-of-life public education campaign;
15 providing campaign criteria; providing
16 contractual power for programs aimed at
17 educating certain health care professionals;
18 requiring a study to be conducted by the
19 agency; providing for a report to the
20 Legislature; providing issues for the study to
21 address; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 320.08049, Florida Statutes, is
26 created to read:

27 320.08049 Additional fee imposed for persons
28 participating in health care advance directive and blood-type
29 registry.--

30 (1) Persons submitting initial application forms for
31 participation in the health care advance directive and

1 blood-type registry created under s. 765.3062 shall be
2 assessed a fee of \$10.

3 (2) The fee provided for in subsection (1) shall be
4 used by the Agency for Health Care Administration to establish
5 and maintain the health care advance directive and blood-type
6 registry. Funds received by the agency from such fees shall be
7 used to:

8 (a) Obtain equipment and software to expand or improve
9 the database for the registry and the organ donor program
10 established under part V of chapter 765.

11 (b) Employ persons necessary to ensure the proper
12 operation of the equipment used to maintain the registry.

13 (c) Fund health care advance directive education
14 efforts as authorized in ss. 765.3065 and 765.3066.

15 Section 2. Subsection (8) is added to section 322.051,
16 Florida Statutes, to read:

17 322.051 Identification Cards.--

18 (8) A fee of \$10 shall be assessed for any person
19 choosing to submit an initial application to participate in
20 the health care advance directive and blood-type registry
21 pursuant to s. 320.08049.

22 Section 3. Paragraph (f) is added to subsection (6) of
23 section 322.08, Florida Statutes, to read:

24 322.08 Application for license.--

25 (6) The application form for a driver's license or
26 duplicate thereof shall include language permitting the
27 following:

28 (f) Assessment of a fee of \$10 for any person choosing
29 to submit an initial application to participate in the health
30 care advance directive and blood-type registry pursuant to s.
31 320.08049.

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2 A statement providing an explanation of the purpose of the
3 trust funds shall also be included.

4 Section 4. Section 765.3061, Florida Statutes, is
5 created to read:

6 765.3061 Health care advance directives and blood-type
7 indication as part of driver's license or identification card
8 process.--

9 (1) The Agency for Health Care Administration and the
10 Department of Highway Safety and Motor Vehicles shall develop
11 and implement a program encouraging and allowing a person, at
12 the person's request, to voluntarily make a health care
13 advance directive, as well as to voluntarily provide his or
14 her blood type, both of which may be noted on the person's
15 driver's license or identification card, upon issuance or
16 renewal of these documents.

17 (2) The health care advance directive form and
18 blood-type confirmation form, both of which are to be
19 distributed by the department, shall be developed by the
20 agency in consultation with the department. The health care
21 advance directive form shall include the living will specified
22 in s. 765.303, which must be executed in accordance with s.
23 765.302. The blood-type confirmation form must be signed by a
24 person's physician or an agent of a blood bank or laboratory
25 that has documentation of the person's blood type. The health
26 care advance directive and blood-type confirmation forms may
27 require additional information and may include additional
28 material as deemed necessary by the agency and the department.
29 An individual completing a health care advance directive form
30 or blood-type confirmation form shall have included on his or
31 her driver's license or identification card a notation on the

1 front of the card clearly indicating the individual's intent
2 concerning life-prolonging procedures and the individual's
3 blood type. A notation on an individual's driver's license or
4 identification card that the individual has a health care
5 advance directive or that provides the individual's blood type
6 is sufficient to satisfy all requirements concerning
7 life-prolonging procedures and necessary blood-type
8 information for health care providers.

9 (3)(a) All forms relating to the execution, amendment,
10 or revocation of a health care advance directive or blood-type
11 confirmation for the purpose of participating in the registry
12 shall be made available to the public at all offices of the
13 Division of Driver Licenses, as well as electronically on the
14 Internet.

15 (b) The forms relating to the execution of a health
16 care advance directive or confirmation of blood type, for
17 purposes of participating in the registry, shall:

18 1. Require an express declaration that the principal
19 has read the form and understands its contents.

20 2. Require an express waiver of any privacy rights
21 granted under state or federal law.

22 3. Require an express waiver of liability for health
23 care providers who rely upon the information contained on the
24 principal's driver's license or the registry.

25 4. Require an acknowledgment from the principal that
26 it is the responsibility of the principal to submit an
27 amendment form or revocation form to the Division of Driver
28 Licenses if it is the principal's desire to change or remove
29 any document recorded in the registry.

30 5. Require acknowledgment from the principal that a
31 reasonable delay will occur in the recording of a newly

1 executed form in the registry by the agency and department,
2 regardless of whether it is a health care advance directive or
3 blood-type confirmation form, or any amendment or revocation
4 thereof, and that health care providers will rely on the
5 information in the registry available at the time such
6 information is obtained by a health care provider.

7 (4) The agency shall provide the necessary supplies
8 and forms through funds appropriated from general revenue, any
9 authorized fees, or contributions from interested, voluntary,
10 nonprofit organizations. The department shall provide the
11 necessary recordkeeping system through funds appropriated from
12 general revenue.

13 Section 5. Section 765.3062, Florida Statutes, is
14 created to read:

15 765.3062 Health care advance directive and blood-type
16 registry; use of forms and delivery of documents.--

17 (1) There is established a health care advance
18 directive and blood-type registry. This registry shall be an
19 expansion of the organ and tissue donor registry that is
20 created, administered, and maintained in accordance with part
21 V of this chapter.

22 (2) The forms to be recorded in the registry shall be
23 collected by the Department of Highway Safety and Motor
24 Vehicles and provided to the Agency for Health Care
25 Administration in a manner similar to the forms and
26 information collected for anatomical gifts as provided in part
27 V of this chapter. The registry shall record, through
28 electronic means, health care advance directive and blood-type
29 documents submitted through the driver's license
30 identification program or obtained from other sources. The
31 registry shall be maintained in a manner that will allow,

1 through electronic and telephonic methods, immediate access to
2 health care advance directive and blood-type documents 24
3 hours a day, 7 days a week. Hospitals and other parties
4 identified by rule of the agency shall be allowed access,
5 through coded means, to the information stored in the
6 registry.

7 (3) If a health care advance directive is made through
8 the program established under s. 765.3061, the completed
9 health care advance directive shall be delivered to the
10 department and processed in the manner specified in subsection

11 (4). Delivery of the health care advance directive is not
12 necessary for the validity of the health care advance
13 directive. If a person amends or revokes a health care advance
14 directive in accordance with s. 765.3063, the records of the
15 department shall be updated to reflect such status of the
16 health care advance directive.

17 (4) If a health care advance directive is made by an
18 individual, other than through the program established by the
19 agency and the department, the document may be recorded in the
20 registry administered by the agency and noted on an
21 individual's driver's license, if the individual follows the
22 procedure and the health care advance directive meets the
23 criteria set forth in this chapter and in any rules of the
24 department and the agency.

25 (5) The agency and the department shall develop and
26 implement a living will registry as an expansion and
27 improvement of the organ donor database maintained by the
28 agency.

29 Section 6. Section 765.3063, Florida Statutes, is
30 created to read:

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1 765.3063 Amendment to or revocation of a health care
2 advance directive or removal of blood type from the registry;
3 responsibility of the participant; last documents submitted
4 and recorded are controlling documents.--

5 (1) A person may amend or revoke a health care advance
6 directive by the execution and delivery of the appropriate
7 form, signed and properly executed, to the Department of
8 Highway Safety and Motor Vehicles to be transmitted to the
9 Agency for Health Care Administration for recording in or
10 removal from the registry.

11 (2) If a person participates in the health care
12 advance directive and blood-type registry, it is the
13 responsibility of the principal to complete and submit the
14 appropriate forms needed to amend or revoke the health care
15 advance directive or blood-type information. If a person
16 chooses to participate in the registry, the most recently
17 submitted forms recorded in the registry shall be considered
18 the controlling documents of the participant in any dispute or
19 decision by a health care provider.

20 (3) A person may remove the record of his or her blood
21 type from the registry by signing a form provided by the
22 department, as developed in conjunction with the agency, that
23 is signed in the presence of an employee of the department.

24 (4) Nothing in this section shall affect a principal's
25 right to amend or revoke a health care advance directive or
26 designation of a surrogate as authorized under s. 765.104 if
27 the principal is not participating in the agency's health care
28 advance directive and blood-type registry.

29 Section 7. Section 765.3064, Florida Statutes, is
30 created to read:

31 765.3064 Immunity from liability.--

1 (1) Notwithstanding the express waiver of liability
2 signed by the person who chooses to participate in the health
3 care advance directive and blood-type registry, a health care
4 facility or a health care provider, or any other person acting
5 under the direction of a health care facility or health care
6 provider, carrying out a health care decision made in
7 accordance with a properly recorded health care advance
8 directive or blood-type confirmation transmitted by the
9 Department of Highway Safety and Motor Vehicles, is not
10 subject to criminal prosecution or civil liability and will
11 not be deemed to have engaged in unprofessional conduct.

12 (2) The Agency for Health Care Administration and the
13 Department of Highway Safety and Motor Vehicles and any
14 employees acting within the scope of their employment are
15 immune from criminal prosecution and civil liability for any
16 acts or forms recorded in compliance with the provisions of
17 this chapter.

18 Section 8. Section 765.3065, Florida Statutes, is
19 created to read:

20 765.3065 Education program relating to health care
21 advance directives and blood-type registries.--The Agency for
22 Health Care Administration, subject to the concurrence of the
23 Department of Highway Safety and Motor Vehicles, shall develop
24 a continuing education program to educate and inform health
25 care professionals, including emergency medical personnel, law
26 enforcement agencies and officers, state and local government
27 employees, and the public regarding the laws of this state
28 relating to the health care advance directives and the health
29 care advance directive and blood-type registry as described in
30 this chapter.

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1 Section 9. Section 765.3066, Florida Statutes, is
2 created to read:

3 765.3066 Health care advance directives education
4 panel.--The Legislature recognizes that every competent adult
5 has the fundamental right of self-determination regarding
6 decisions pertaining to his or her health. This includes the
7 right to choose or refuse medical treatment. A panel of three
8 members appointed by the secretary of the Department of
9 Elderly Affairs, the secretary of the Agency for Health Care
10 Administration, and the secretary of the Department of Health
11 shall jointly create a campaign on end-of-life care for
12 purposes of educating the public. This campaign shall include
13 culturally sensitive programs to improve understanding of
14 end-of-life issues. Existing community resources, when
15 available, shall be used to support the program, and
16 volunteers and health care professionals may assist in the
17 program to the maximum extent possible. The program aimed at
18 educating health care professionals may be implemented by
19 contract with one or more medical schools located in the
20 state.

21 Section 10. Effective upon this act becoming a law,
22 the Agency for Health Care Administration shall conduct a
23 study of the implementation of the health care advance
24 directive and blood-type registry and report its findings and
25 recommendations to the Speaker of the House of Representatives
26 and the President of the Senate by January 1, 2005. The study
27 shall, at a minimum, examine and make recommendations
28 concerning the following:

29 (1) The nonrecurring capital outlay and recurring
30 operational funding necessary to establish and maintain the
31 health care advance directive and blood-type registry.

1 (2) The efficiency and cost-effectiveness of databases
2 and procedures used to maintain the data in the registry and
3 to transfer forms between the Department of Highway Safety and
4 Motor Vehicles and the Agency for Health Care Administration.

5 (3) The reasonable timeframes necessary to record
6 forms and other information in the registry and make such
7 information available to health care facilities and
8 appropriate professionals.

9 (4) The types of disclosures and disclaimers necessary
10 to be included in the forms used for the health care advance
11 directive and blood-type registry.

12 (5) The projected number of persons who may
13 participate in the health care advance directive and
14 blood-type registry and the sufficiency of the fees assessed
15 to fund the registry and health care advance directive
16 education efforts.

17 Section 11. This act shall take effect upon becoming a
18 law.

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