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SECOND REPRINT

A.B. 158

ASSEMBLY BILL NO. 158—ASSEMBLYMEN BOBZIEN, LESLIE, GANSERT, PARKS, BUCKLEY, ALLEN, ANDERSON, ARBERRY, ATKINSON, CONKLIN, GERHARDT, HARDY, HORNE, KIHUEN, KIRKPATRICK, KOIVISTO, MANENDO, MCCLAIN, OCEGUERA, OHRENSCHALL, PARNELL, PIERCE, SEGERBLOM, SETTELMAYER, SMITH AND WOMACK

FEBRUARY 23, 2007

JOINT SPONSORS: SENATORS HORSFORD, TITUS,
TOWNSEND, WIENER AND WOODHOUSE

Referred to Committee on Health and Human Services

SUMMARY—Requires the Secretary of State to establish and maintain the Registry of Advance Directives for Health Care on his Internet website. (BDR 40-927)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health care; requiring the Secretary of State to establish and maintain the Registry of Advance Directives for Health Care on his Internet website; establishing the requirements to register an advance directive and to obtain access to an advance directive in the Registry; providing civil and criminal immunity to providers of health care and the Secretary of State, his deputies, employees and attorneys under certain circumstances; requiring the Secretary of State to make certain determinations before performing certain duties; requiring the Secretary of State to conduct an interim study of the Registry; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Under existing law, a person may provide an advance directive concerning his health care in the form of a declaration governing the withholding or withdrawal of life-sustaining treatment, a durable power of attorney for health care decisions or a do-not-resuscitate order. (NRS 449.535-449.690, 449.800-449.860, 450B.420)

Section 6 of this bill requires the Secretary of State to establish and maintain the Registry of Advance Directives for Health Care by posting a digital photograph of each advance directive to a secure portion of his Internet website.

Section 7 of this bill establishes the procedures that a person must follow to register his advance directive with the Secretary of State and obtain the registration number and password that are needed to access his advance directive in the registry.

Section 8 of this bill requires any person requesting access to an advance directive in the Registry to provide the correct registration number and password.

Section 8 also restricts access to a person's advance directive in the Registry to the registrant and his personal representative or provider of health care unless: (1) the registrant requests that another person be granted access; (2) the Secretary of State determines that the access is in the registrant's best interest; or (3) the access is necessary to comply with a court order.

Section 10 of this bill provides that the Secretary of State is not required to determine whether an advance directive is accurate or valid before posting it to the Registry and clarifies that the validity of an advance directive or a revocation of an advance directive is not affected by posting or failing to post the advance directive to the Registry.

Sections 11 and 12 of this bill provide civil and criminal immunity for providers of health care and the Secretary of State, his deputies, employees and attorneys in connection with the Registry if they act in good faith.

Section 13 of this bill authorizes the Secretary of State to charge fees and accept contributions to establish and maintain the Registry. **Section 13** also requires the Secretary of State to determine at the beginning of each fiscal year whether sufficient money is available to fund one or more components of the programs and duties of the Secretary of State relating to **sections 2-15** of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. *As used in sections 2 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Advance directive" means an advance directive for health care. The term includes:*

1. A declaration governing the withholding or withdrawal of life-sustaining treatment as set forth in NRS 449.535 to 449.690, inclusive;

2. A durable power of attorney for health care decisions as set forth in NRS 449.800 to 449.860, inclusive; and



3. A do-not-resuscitate order as defined in NRS 450B.420.

Sec. 4. "Registrant" means a person whose advance directive is registered with the Secretary of State pursuant to section 7 of this act.

Sec. 5. "Registry" means the Registry of Advance Directives for Health Care established by the Secretary of State pursuant to section 6 of this act.

Sec. 6. The Secretary of State shall establish and maintain the Registry of Advance Directives for Health Care on his Internet website. The Registry must include, without limitation, in a secure portion of the website, an electronic reproduction of each advance directive. The electronic reproduction must be capable of being viewed on the website and downloaded, printed or otherwise retrieved by a person as set forth in section 8 of this act.

Sec. 7. 1. A person who wishes to register an advance directive must submit to the Secretary of State:

(a) An application in the form prescribed by the Secretary of State;

(b) A copy of the advance directive; and

(c) The fee, if any, established by the Secretary of State pursuant to section 13 of this act.

2. If the person satisfies the requirements of subsection 1, the Secretary of State shall:

(a) Make an electronic reproduction of the advance directive and post it to the Registry;

(b) Assign a registration number and password to the registrant; and

(c) Provide the registrant with a registration card that includes, without limitation, the name, registration number and password of the registrant.

3. The Secretary of State shall establish procedures for:

(a) The registration of an advance directive that replaces an advance directive that is posted on the Registry;

(b) The removal from the Registry of an advance directive that has been revoked following the revocation of the advance directive or the death of the registrant; and

(c) The issuance of a duplicate registration card or the provision of other access to the registrant's registration number and password if a registration card issued pursuant to this section is lost, stolen, destroyed or otherwise unavailable.

Sec. 8. 1. Except as otherwise provided in this section, the Secretary of State shall not provide access to a registrant's advance directive unless:

(a) The person requesting access provides the registration number and password of the registrant;



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(b) *The Secretary of State determines that providing access to the advance directive is in the best interest of the registrant;*

(c) *Access to the advance directive is required pursuant to the lawful order of a court of competent jurisdiction; or*

(d) *Access to the advance directive is requested by the registrant or his personal representative.*

2. *A registrant or the personal representative of a registrant may access the registrant's advance directive for any purpose. A provider of health care to the registrant may access the registrant's advance directive only in connection with the provision of health care to the registrant.*

Sec. 9. *The Secretary of State shall remove from the Registry the advance directives of deceased registrants. The State Registrar of Vital Statistics shall cooperate with the Secretary of State to identify registrants whose advance directives must be removed from the Registry. The Secretary of State shall remove from the Registry the advance directives of deceased registrants at least once every 5 years.*

Sec. 10. 1. *The provisions of sections 2 to 15, inclusive, of this act do not require the Secretary of State to determine whether the contents of an advance directive submitted for registration are accurate or the execution or issuance of the advance directive complies with the requirements necessary to make the advance directive valid.*

2. *The registration of an advance directive does not establish or create a presumption that the contents of the advance directive are accurate or the execution or issuance of the advance directive complies with the requirements necessary to make the advance directive valid.*

3. *Failure to register an advance directive does not affect the validity of the advance directive.*

4. *Failure to notify the Secretary of State of the revocation of a registrant's advance directive does not affect the validity of the revocation.*

Sec. 11. 1. *The provisions of sections 2 to 15, inclusive, of this act do not require a provider of health care to inquire whether a patient has an advance directive registered on the Registry or to access the Registry to determine the terms of the advance directive.*

2. *A provider of health care who relies in good faith on the provisions of an advance directive retrieved from the Registry is immune from criminal and civil liability as set forth in:*

(a) *NRS 449.630, if the advance directive is a declaration governing the withholding or withdrawal of life-sustaining treatment executed pursuant to NRS 449.535 to 449.690, inclusive,*



1 *or a durable power of attorney for health care decisions executed*
2 *pursuant to NRS 449.800 to 449.860, inclusive; or*

3 *(b) NRS 450B.540, if the advance directive is a do-not-*
4 *resuscitate order as defined in NRS 450B.420.*

5 **Sec. 12.** *The Secretary of State and the deputies, employees*
6 *and attorneys of the Secretary of State are not liable for any action*
7 *or omission made in good faith by the Secretary of State, deputy,*
8 *employee or attorney in carrying out the provisions of sections 2 to*
9 *15, inclusive, of this act.*

10 **Sec. 13.** 1. *On or before July 1 of each odd-numbered year,*
11 *the Secretary of State shall make a determination of whether*
12 *sufficient money is available and authorized for expenditure to*
13 *fund one or more components of the programs and other duties of*
14 *the Secretary of State relating to sections 2 to 15, inclusive, of this*
15 *act.*

16 2. *The Secretary of State shall temporarily suspend any*
17 *components of the programs or duties of the Secretary of State for*
18 *which he determines pursuant to subsection 1 that sufficient*
19 *money is not available.*

20 3. *The Secretary of State may charge and collect fees and*
21 *accept gifts, grants, bequests and other contributions from any*
22 *source for the purpose of carrying out the provisions of sections 2*
23 *to 15, inclusive, of this act.*

24 **Sec. 14.** 1. *All money received by the Secretary of State*
25 *pursuant to sections 2 to 15, inclusive, of this act must be:*

26 *(a) Deposited in the State Treasury and accounted for*
27 *separately in the State General Fund; and*

28 *(b) Used only for the purpose of carrying out the provisions of*
29 *sections 2 to 15, inclusive, of this act.*

30 2. *The Secretary of State shall administer the account. The*
31 *interest and income earned on the money in the account, after*
32 *deducting any applicable charges, must be credited to the account.*

33 3. *The money in the account does not lapse to the State*
34 *General Fund at the end of any fiscal year.*

35 4. *Claims against the account must be paid as other claims*
36 *against the State are paid.*

37 **Sec. 15.** *The Secretary of State may adopt regulations to*
38 *carry out the provisions of sections 2 to 15, inclusive, of this act.*

39 **Sec. 16.** *To the extent money is available and authorized for*
40 *use for the purposes set forth in this section:*

41 1. *The Secretary of State shall conduct a study of the Registry*
42 *of Advance Directives for Health Care.*

43 2. *In conducting the study pursuant to subsection 1, the*
44 *Secretary of State shall work in consultation with and solicit advice*



1 and recommendations from the Nevada Center for Ethics and Health
2 Policy of the University of Nevada, Reno.

3 3. The Secretary of State shall submit a report of the results of
4 the study and any recommendations for legislation to the Director of
5 the Legislative Counsel Bureau for transmission to the 75th Session
6 of the Nevada Legislature.

7 **Sec. 17.** This act becomes effective upon passage and approval
8 for the purpose of adopting regulations and performing any other
9 preparatory administrative tasks that are necessary to carry out the
10 provisions of this act, and on July 1, 2007, for all other purposes.

