A BILL FOR AN ACT

CONCERNING A STATEWIDE SYSTEM OF ADVANCE MEDICAL DIRECTIVES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill requires the department of public health and environment (department) to create and administer a statewide electronic system (system) that allows qualified individuals to upload and access advance medical directives.

The bill defines an advance medical directive as a directive concerning medical orders for scope of treatment and requires the
department to contract with one or more health information organization networks for the administration and maintenance of the system. The bill also requires the department to promulgate rules to administer the system.

The bill clarifies that it is the responsibility of the adult whose medical treatment is the subject of the advance medical directive, or the authorized surrogate decision-maker, to ensure that the advance medical directive uploaded to the system is current and accurate.

The bill does not allow for any civil or criminal liability or regulatory sanctions for any emergency personnel, health care provider, health care facility, or any other person that complies with a legally executed advance medical directive that is accessed from the system.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add article 51 to title 25 as follows:

ARTICLE 51

Statewide System for Advance Medical Directives

25-51-101. Definitions. As used in this Article 51, unless the context otherwise requires:

(1) "Advance medical directive" means a directive concerning medical orders for scope of treatment executed pursuant to article 18.7 of title 15, or a directive concerning medical orders for scope of treatment that has been properly executed in another state.

(2) "Department" means the department of public health and environment created and existing pursuant to section 24-1-119.

(3) "Health information organization network" means a statewide organization that oversees and governs the exchange of health-related information among organizations according to nationally recognized standards.
(4) "QUALIFIED INDIVIDUAL" MEANS:

(a) A PERSON OR ENTITY THAT MAY USE OR DISCLOSE PROTECTED HEALTH INFORMATION FOR TREATMENT PURPOSES IN ACCORDANCE WITH GUIDELINES UNDER THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED; OR

(b) AN INDIVIDUAL OR SURROGATE DECISION-MAKER OF AN INDIVIDUAL WHO HAS AN ADVANCE MEDICAL DIRECTIVE.

25-51-102. Statewide system for advance directives created - rules. (1) The department shall create and administer a statewide electronic system, referred to within this section as the "SYSTEM", that allows qualified individuals to upload and access advance medical directives. The department shall ensure that qualified individuals may access the system for treatment purposes that are allowed under the federal "Health Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended.

(2) The department shall contract with one or more health information organization networks for the administration and maintenance of the system.

(3) The department shall promulgate rules in accordance with article 4 of title 24 to administer the provisions of this article 51, including but not limited to rules establishing:

(a) Criteria for qualified individuals to have access to the system and advance medical directives;

(b) Procedures by which a qualified individual may add or remove an advance medical directive to or from the system;

(c) Procedures by which a qualified individual may access
AND DOWNLOAD AN ADVANCE MEDICAL DIRECTIVE FROM THE SYSTEM;

AND

(d) PROCEDURES AND SAFEGUARDS FOR ENSURING THE
CONFIDENTIALITY AND SECURE STORAGE OF THE INFORMATION
CONTAINED IN ADVANCE MEDICAL DIRECTIVES THAT IS ADDED TO AND
MAINTAINED IN THE SYSTEM.

(4) THE INDIVIDUAL WHOSE MEDICAL TREATMENT IS THE SUBJECT
OF THE ADVANCE MEDICAL DIRECTIVE, OR THE AUTHORIZED SURROGATE
DECISION-MAKER, IS RESPONSIBLE FOR ENSURING THAT THE ADVANCE
MEDICAL DIRECTIVE UPLOADED TO THE SYSTEM IS APPROPRIATELY
EXECUTED, CURRENT, AND ACCURATE.

(5) EMERGENCY MEDICAL SERVICE PERSONNEL, AN INDIVIDUAL
HEALTH CARE PROVIDER, A HEALTH CARE FACILITY, OR ANY OTHER
PERSON OR ENTITY THAT COMPLIES WITH AN ADVANCE MEDICAL
DIRECTIVE ACCESSED FROM THE SYSTEM IS NOT SUBJECT TO CIVIL OR
CRIMINAL LIABILITY OR REGULATORY SANCTION FOR ACTION TAKEN IN
ACCORDANCE WITH THE ADVANCE MEDICAL DIRECTIVE.

SECTION 2. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly (August
2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the
state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part will not take effect
unless approved by the people at the general election to be held in
November 2020 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.