HOUSE BILL 188

J1, C3 7lr0989 CF 7lr1288

By: Delegates Morhaim, Kipke, Lam, Oaks, and K. Young, Krebs, Morgan, Pena-Melnyk, and Saab

Introduced and read first time: January 19, 2017 Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2017

CHAPTER _____

1 AN ACT concerning

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Public Health – Advance Directives – Witness Requirements, Advance Directives Services, and Fund

FOR the purpose of altering the circumstances under which a witness's subscription is not required for an electronic advance directive; requiring the Maryland Health Care Commission to adopt regulations specifying the manner in which clarifying that certain guidelines, in accordance with which a declarant's identity may be established authenticated without a witness's subscription apply as periodically updated; requiring the Department of Health and Mental Hygiene to issue a request for proposals from electronic advance directives services for a certain purpose; clarifying that the Department of Health and Mental Hygiene may contract with multiple electronic advance directives services; requiring an electronic advance directives service to use certain guidelines to authenticate a declarant's identity for an electronic advance directive that is not witnessed; requiring the Maryland Health Care Commission and the Department to approve only electronic advance directives services that use certain guidelines to authenticate a declarant's identity for an electronic advance directive that is not witnessed; requiring an individual to submit an electronic advance directive that is not witnessed to an electronic advance directives service recognized by the Commission; repealing a certain provision of law requiring the Department to review an advance directive and verify that the advance directive includes certain items before accepting the advance directive into an electronic advance directives service; establishing the Advance Directive Program Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Department to administer the Fund; requiring the State Treasurer to hold the Fund

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

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1 and the Comptroller to account for the Fund; specifying the contents of the Fund; 2 specifying the purpose for which the Fund may be used; providing for the investment 3 of money in and expenditures from the Fund; requiring interest earnings of the Fund 4 to be credited to the Fund; exempting the Fund from a certain provision of law 5 requiring interest earnings on State money to accrue to the General Fund of the 6 State: requiring, on or before a certain date each year, the Department to report to 7 the Governor and certain committees of the General Assembly on the Advance 8 Directive Program; repealing certain provisions of law relating to the establishment, 9 operation, and duties of the State Board of Spinal Cord Injury Research; repealing 10 certain provisions of law establishing the Spinal Cord Injury Research Trust Fund; 11 repealing certain provisions of law authorizing the Secretary of Health and Mental 12 Hygiene to take certain actions relating to grants made from money in the Spinal 13 Cord Injury Research Trust Fund; requiring a certain amount of a certain tax on 14 certain health insurers to be distributed annually to the Advance Directive Program 15 Fund instead of to the Spinal Cord Injury Research Trust Fund; transferring money 16 remaining in the Spinal Cord Injury Research Trust Fund to the Advance Directive 17 Program Fund; defining a certain term; altering a certain definition; repealing 18 certain definitions; and generally relating to advance directives, advance directives 19 services, and the Advance Directive Program Fund.

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21
           Article – Health – General
22
          Section 5–601(a) and 5–620
23
           Annotated Code of Maryland
24
           (2015 Replacement Volume and 2016 Supplement)
    BY repealing and reenacting, with amendments,
25
26
           Article – Health – General
27
           Section 5–601(b), 5–602(c), and 5–622(a)(1) 5–622(a), and 5–623(c)
28
           Annotated Code of Maryland
29
           (2015 Replacement Volume and 2016 Supplement)
30
    BY repealing
31
           Article – Health – General
32
           Section 5-624; and 13-1401 through 13-1407 and the subtitle "Subtitle 14. State
33
                 Board of Spinal Cord Injury Research"
34
          Annotated Code of Maryland
           (2015 Replacement Volume and 2016 Supplement)
35
36
    BY adding to
37
          Article - Health - General
38
           Section 5–626 and 5–627
39
           Annotated Code of Maryland
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(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Insurance

BY repealing and reenacting, without amendments,

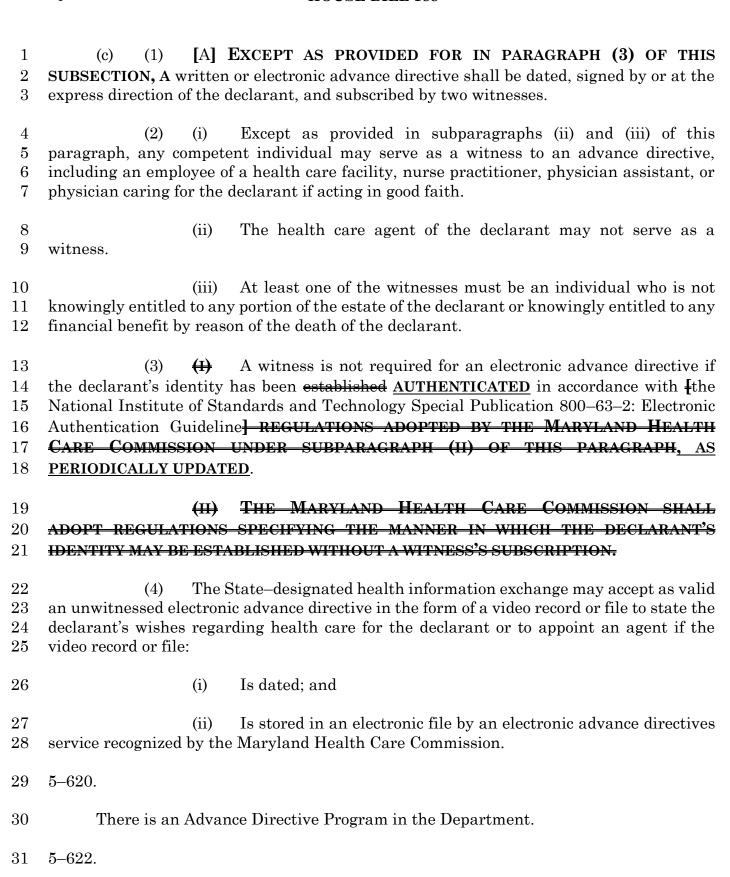
$\frac{1}{2}$	Section 6–103.1 Annotated Code of Maryland					
3	(2011 Replacement Volume and 2016 Supplement)					
4	BY repealing and reenacting, without amendments,					
5	5 Article – State Finance and Procurement					
6	Section 6–226(a)(2)(i)					
7	Annotated Code of Maryland					
8	(2015 Replacement Volume and 2016 Supplement)					
9	BY repealing and reenacting, with amendments,					
0	Article – State Finance and Procurement					
1	Section 6–226(a)(2)(ii)94. and 95.					
12	Annotated Code of Maryland					
13	(2015 Replacement Volume and 2016 Supplement)					
4	BY adding to					
$_{15}$	Article – State Finance and Procurement					
16	Section 6–226(a)(2)(ii)96.					
.7	Annotated Code of Maryland					
18	(2015 Replacement Volume and 2016 Supplement)					
19 20	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:					
21	Article – Health – General					
22	5–601.					
23	(a) In this subtitle the following words have the meanings indicated.					
24	(b) "Advance directive" means:					
25	(1) A witnessed written or electronic document, voluntarily executed by the					
26	declarant in accordance with the requirements of this subtitle; [or]					
27	(2) A witnessed oral statement, made by the declarant in accordance with					
28	the provisions of this subtitle; OR					
29	(3) An electronic document, voluntarily executed by the					
30	DECLARANT, IN WHICH THE DECLARANT'S IDENTITY IS ESTABLISHED					
31	AUTHENTICATED IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER §					
32	5-602(C)(3)(H) OF THIS SUBTITLE THE GUIDELINES DESCRIBED IN § 5-602(C)(3) OF					
33	THIS SUBTITLE.					

5-602.

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(a)

(1)



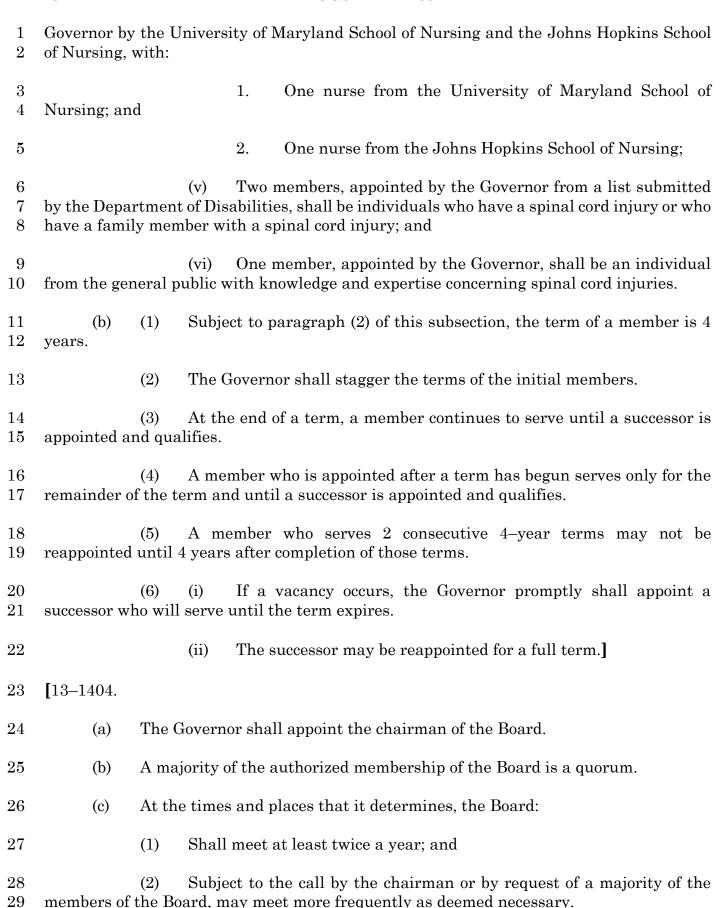
To facilitate the use of cloud-based technology for electronic advance

directives, the Department shall ISSUE A REQUEST FOR PROPOSALS FROM AND contract

1 2 3	DIRECTIVES SERVICES to connect with health care providers at the point of care through					
4	(2) [The] AN electronic advance directives service shall:					
5 6	(i) Be approved by the Maryland Health Care Commission and the Department; [and]					
7 8	(ii) Meet the technology, security, and privacy standards set by the Maryland Health Care Commission; AND					
9 10 11	(III) USE THE GUIDELINES DESCRIBED IN § 5-602(C)(3) OF THIS SUBTITLE TO AUTHENTICATE A DECLARANT'S IDENTITY FOR AN ELECTRONIC ADVANCE DIRECTIVE THAT IS NOT WITNESSED.					
12 13 14 15	(3) THE MARYLAND HEALTH CARE COMMISSION AND THE DEPARTMENT MAY APPROVE ONLY ADVANCE DIRECTIVES SERVICES THAT USE THE GUIDELINES DESCRIBED IN § 5–602(C)(3) OF THIS SUBTITLE TO AUTHENTICATE A DECLARANT'S IDENTITY FOR AN ELECTRONIC ADVANCE DIRECTIVE THAT IS NOT WITNESSED.					
17	<u>5–623.</u>					
18 19 20 21 22 23	(c) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN individual is not required to submit an advance directive to an electronic advance directives service recognized by the Maryland Health Care Commission. (2) AN INDIVIDUAL SHALL SUBMIT AN ELECTRONIC ADVANCE DIRECTIVE THAT IS NOT WITNESSED TO AN ELECTRONIC ADVANCE DIRECTIVES SERVICE THAT IS RECOGNIZED BY THE MARYLAND HEALTH CARE COMMISSION.					
24	[5–624.					
25 26 27	recognized by the Maryland Health Care Commission, the Department shall review and					
28	(1) The signature of the declarant;					
29 30	(2) The date on which the advance directive was signed by the declarant; and					
31	(3) The signature of two witnesses as provided in § 5-602(c) of this					

- 1 **5–626.**
- 2 (A) IN THIS SECTION, "FUND" MEANS THE ADVANCE DIRECTIVE PROGRAM
- 3 **FUND.**
- 4 (B) THERE IS AN ADVANCE DIRECTIVE PROGRAM FUND.
- 5 (C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO CARRY OUT
- 6 THE PURPOSES OF THE ADVANCE DIRECTIVE PROGRAM ESTABLISHED UNDER §
- 7 5-620 OF THIS SUBTITLE.
- 8 (D) THE DEPARTMENT SHALL ADMINISTER THE FUND.
- 9 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT 10 SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.
- 11 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
- 12 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.
- 13 **(F)** THE FUND CONSISTS OF:
- 14 (1) MONEY TRANSFERRED TO THE FUND UNDER § 6–103.1 OF THE
- 15 INSURANCE ARTICLE;
- 16 (2) Interest earned under subsection (h) of this section;
- 17 AND
- 18 (3) ANY OTHER MONEY RECEIVED FROM ANY OTHER LAWFUL SOURCE
- 19 ACCEPTED FOR THE BENEFIT OF THE FUND.
- 20 (G) MONEY IN THE FUND MAY BE USED ONLY TO CARRY OUT THE PURPOSES
- 21 OF THE ADVANCE DIRECTIVE PROGRAM ESTABLISHED UNDER § 5-620 OF THIS
- 22 SUBTITLE.
- 23 (H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND
- 24 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.
- 25 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
- 26 THE FUND.
- 27 **5–627.**
- ON OR BEFORE JANUARY 15 EACH YEAR, THE DEPARTMENT SHALL REPORT
- 29 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE

- 1 GOVERNMENT ARTICLE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE
- 2 HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, THE SENATE BUDGET AND
- 3 TAXATION COMMITTEE, AND THE SENATE FINANCE COMMITTEE ON THE PROGRAM,
- 4 INCLUDING, FOR THE PRIOR CALENDAR YEAR, THE COSTS TO ESTABLISH AND
- 5 MAINTAIN THE PROGRAM AND THE FEES CHARGED TO REGISTRANTS UNDER THE
- 6 PROGRAM.
- 7 [Subtitle 14. State Board of Spinal Cord Injury Research.]
- 8 [13–1401.
- 9 (a) In this subtitle the following words have the meanings indicated.
- 10 (b) "Board" means the State Board of Spinal Cord Injury Research.
- 11 (c) "Fund" means the Spinal Cord Injury Research Trust Fund.]
- 12 [13–1402.
- There is a State Board of Spinal Cord Injury Research in the Department.]
- 14 [13–1403.
- 15 (a) (1) The Board consists of 11 members.
- 16 (2) Of the 11 members of the Board:
- 17 (i) One shall be a member of the Maryland House of Delegates 18 appointed by the Speaker of the House;
- 19 (ii) One shall be a member of the Senate of Maryland appointed by 20 the President of the Senate;
- 21 (iii) Four shall be individuals with knowledge and expertise
- 22 concerning spinal cord injuries appointed by the Governor from separate lists submitted to
- 23 the Governor by the University of Maryland School of Medicine and the Johns Hopkins
- 24 School of Medicine, with:
- 25 1. Two individuals from the University of Maryland School
- 26 of Medicine; and
- 27 2. Two individuals from the Johns Hopkins School of
- 28 Medicine;
- 29 (iv) Two shall be nurses with knowledge and expertise concerning
- 30 spinal cord injuries appointed by the Governor from separate lists submitted to the

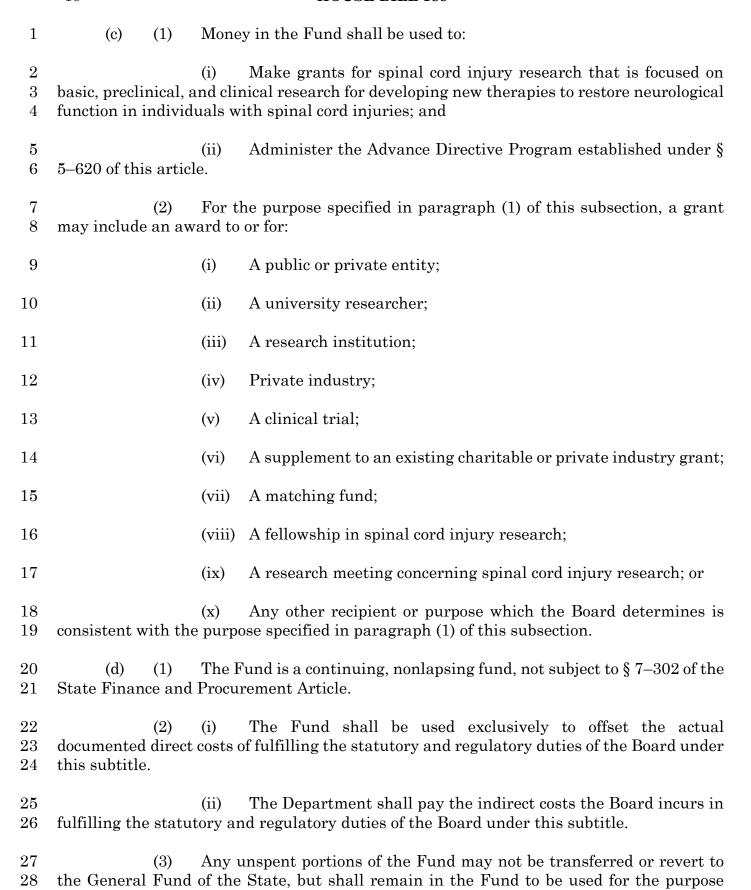


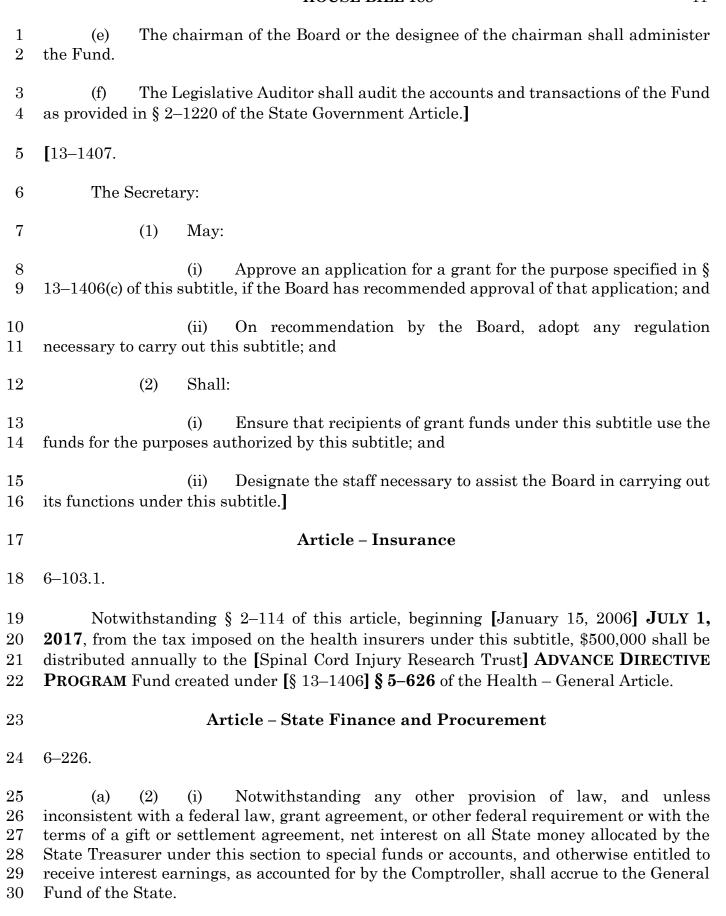
1 A member of the Board: (d) 2 (1) May not receive compensation; but 3 (2)Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget. 4 5 [13–1405. 6 The Board shall: (a) 7 (1)Develop criteria, subject to the approval of the Secretary, for the award 8 of grants for the purpose specified in § 13–1406(c) of this subtitle; 9 (2)Subject to § 13–1407 of this subtitle, administer: 10 A grants program for the purpose specified in § 13–1406(c)(1) of (i) 11 this subtitle; and 12 The Fund: (ii) 13 Make recommendations to the Secretary for approval of applications for 14 grants from the Fund; and 15 On or before January 1 of each year beginning in 2002, submit a report **(4)** 16 to the Governor and, subject to § 2–1246 of the State Government Article, to the General 17 Assembly concerning: 18 The activities of the Board in administering the grant program specified in this subtitle, including the status of money in the Fund; 19 20(ii) The status of spinal cord injury neurological research projects 21that are funded by grants issued by the Board; and 22 (iii) Any other matter determined by the Board. 23 A member of the Board who is a member of the General Assembly may not 24vote on matters before the Board relating to the exercise of the sovereign powers of the 25 State. 26[13–1406. 27 There is a Spinal Cord Injury Research Trust Fund. (a) 28 (b) The Fund shall consist of money transferred to the Fund under § 6–103.1 of

the Insurance Article or received from any other lawful source.

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specified in subsection (c) of this section.





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$\frac{1}{2}$	(ii) to the following funds:	The p	provisions of subparagraph (i) of this paragraph do not apply		
3		94.	the Community Program Fund; [and]		
4		95.	the Maryland Corps Program Fund; AND		
5		96.	THE ADVANCE DIRECTIVE PROGRAM FUND.		
6 7 8	SECTION 2. AND BE IT FURTHER ENACTED, That all money remaining in the Spinal Cord Injury Research Trust Fund shall be transferred to the Advance Directive Program Fund on July 1, 2017.				
9 10					
	Approved:				
			Governor.		
			Speaker of the House of Delegates.		

President of the Senate.