



1 PURPOSES OF THIS ARTICLE 51.

2 (2) "AUTHORIZED SURROGATE DECISION-MAKER" MEANS A  
3 GUARDIAN APPOINTED PURSUANT TO ARTICLE 14 OF TITLE 15, AN AGENT  
4 APPOINTED PURSUANT TO A MEDICAL DURABLE POWER OF ATTORNEY, A  
5 PROXY DECISION-MAKER FOR MEDICAL TREATMENT DECISIONS APPOINTED  
6 PURSUANT TO ARTICLE 18.5 OF TITLE 15, OR A SIMILARLY AUTHORIZED  
7 SURROGATE, AS DEFINED BY THE LAWS OF ANOTHER STATE, WHO IS  
8 AUTHORIZED TO MAKE MEDICAL DECISIONS FOR AN INDIVIDUAL WHO  
9 LACKS DECISIONAL CAPACITY.

10 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH  
11 AND ENVIRONMENT CREATED AND EXISTING PURSUANT TO SECTION  
12 24-1-119.

13 (4) "HEALTH INFORMATION ORGANIZATION NETWORK" MEANS A  
14 COLORADO ORGANIZATION THAT HAS EXPERIENCE IN OVERSEEING AND  
15 GOVERNING THE EXCHANGE OF HEALTH-RELATED INFORMATION AMONG  
16 ORGANIZATIONS ACCORDING TO COLORADO LAW AND NATIONALLY  
17 RECOGNIZED STANDARDS INCLUDING BUT NOT LIMITED TO THE FEDERAL  
18 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",  
19 PUB.L. 104-191, AS AMENDED.

20 (5) "INDIVIDUAL" MEANS THE INDIVIDUAL WHOSE MEDICAL  
21 TREATMENT IS THE SUBJECT OF THE ADVANCE HEALTH CARE DIRECTIVE.

22 (6) "QUALIFIED PROVIDER" MEANS A PERSON OR ENTITY THAT MAY  
23 USE OR DISCLOSE PROTECTED HEALTH INFORMATION FOR TREATMENT  
24 PURPOSES IN ACCORDANCE WITH GUIDELINES UNDER THE FEDERAL  
25 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",  
26 PUB.L. 104-191, AS AMENDED.

27 **25-51-102. Statewide system for advance directives created -**  
28 **rules.** (1) THE DEPARTMENT HAS THE FOLLOWING POWERS AND DUTIES  
29 WITH RESPECT TO THE PROVISION OF A STATEWIDE ELECTRONIC SYSTEM,  
30 REFERRED TO IN THIS SECTION AS THE "SYSTEM", THAT ALLOWS QUALIFIED  
31 INDIVIDUALS TO UPLOAD AND ACCESS ADVANCE MEDICAL DIRECTIVES:

32 (a) TO ENSURE THAT QUALIFIED INDIVIDUALS MAY ACCESS THE  
33 SYSTEM FOR TREATMENT PURPOSES THAT ARE ALLOWED UNDER THE  
34 FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT  
35 OF 1996", PUB.L. 104-191, AS AMENDED;

36 (b) TO CONTRACT WITH ONE OR MORE HEALTH INFORMATION  
37 ORGANIZATION NETWORKS FOR THE CREATION, ADMINISTRATION, AND  
38 MAINTENANCE OF THE SYSTEM; AND

39 (c) TO PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF  
40 TITLE 24 TO OVERSEE THE PROVISIONS OF THIS ARTICLE 51, INCLUDING BUT  
41 NOT LIMITED TO RULES ESTABLISHING:

1 (I) CRITERIA FOR QUALIFIED INDIVIDUALS TO HAVE ACCESS TO THE  
2 SYSTEM AND ADVANCE MEDICAL DIRECTIVES;

3 (II) PROCEDURES BY WHICH A QUALIFIED INDIVIDUAL MAY ADD OR  
4 REMOVE AN ADVANCE MEDICAL DIRECTIVE TO OR FROM THE SYSTEM;

5 (III) PROCEDURES BY WHICH A QUALIFIED INDIVIDUAL MAY  
6 ACCESS AND DOWNLOAD AN ADVANCE MEDICAL DIRECTIVE FROM THE  
7 SYSTEM; AND

8 (IV) PROCEDURES AND SAFEGUARDS FOR ENSURING THE  
9 CONFIDENTIALITY AND SECURE STORAGE OF THE INFORMATION  
10 CONTAINED IN AN ADVANCE MEDICAL DIRECTIVE THAT IS ADDED TO AND  
11 MAINTAINED IN THE SYSTEM.

12 (2) (a) UPON THE REQUEST OF AN INDIVIDUAL, OR AUTHORIZED  
13 SURROGATE DECISION-MAKER, A QUALIFIED PROVIDER THAT HAS AN  
14 AGREEMENT WITH THE HEALTH INFORMATION ORGANIZATION NETWORK  
15 AS REQUIRED UNDER THE FEDERAL "HEALTH INSURANCE PORTABILITY  
16 AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED, MAY  
17 UPLOAD THE INDIVIDUAL'S ADVANCE HEALTH CARE DIRECTIVE TO THE  
18 SYSTEM. THE ADVANCE HEALTH CARE DIRECTIVE SHALL ONLY BE  
19 UPLOADED TO THE SYSTEM BY A QUALIFIED PROVIDER AFTER THE  
20 INDIVIDUAL OR AUTHORIZED SURROGATE DECISION-MAKER HAS  
21 CONSULTED WITH THE QUALIFIED PROVIDER IN PERSON OR THROUGH  
22 TELEHEALTH, AS DEFINED IN SECTION 10-16-123 (4)(e)(I). A QUALIFIED  
23 PROVIDER WHO UPLOADS AN ADVANCE HEALTH CARE DIRECTIVE TO THE  
24 SYSTEM IS NOT SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR REGULATORY  
25 SANCTION FOR ACTION TAKEN IN ACCORDANCE WITH THIS SUBSECTION (2).

26 (b) PRIOR TO THE UPLOAD OF AN ADVANCE HEALTH CARE  
27 DIRECTIVE TO THE SYSTEM, THE INDIVIDUAL, OR AUTHORIZED SURROGATE  
28 DECISION-MAKER, SHALL SIGN AN ELECTRONIC AFFIDAVIT IN THE  
29 PRESENCE OF A QUALIFIED PROVIDER AFFIRMING THE ADVANCE HEALTH  
30 CARE DIRECTIVE IS APPROPRIATELY EXECUTED, CURRENT, AND ACCURATE.  
31 SIGNING THE ELECTRONIC AFFIDAVIT REVOKES ANY PRIOR ADVANCE  
32 HEALTH CARE DIRECTIVES OF THE SAME TYPE PREVIOUSLY UPLOADED TO  
33 THE SYSTEM.

34 (c) THE INDIVIDUAL, OR AUTHORIZED SURROGATE  
35 DECISION-MAKER, IS RESPONSIBLE FOR ENSURING THAT THE ADVANCE  
36 HEALTH CARE DIRECTIVE UPLOADED TO THE SYSTEM IS APPROPRIATELY  
37 EXECUTED, CURRENT, AND ACCURATE.

38 (3) EMERGENCY MEDICAL SERVICE PERSONNEL, AN INDIVIDUAL  
39 HEALTH CARE PROVIDER, A HEALTH CARE FACILITY, OR ANY OTHER  
40 PERSON OR ENTITY THAT COMPLIES WITH AN ADVANCE HEALTH CARE  
41 DIRECTIVE ACCESSED FROM THE SYSTEM IS NOT SUBJECT TO CIVIL OR

1 CRIMINAL LIABILITY OR REGULATORY SANCTION FOR ACTION TAKEN IN  
2 ACCORDANCE WITH THE ADVANCE HEALTH CARE DIRECTIVE, UNLESS THE  
3 PERSON OR ENTITY HAS ACTUAL KNOWLEDGE OF AN ADVANCE HEALTH  
4 CARE DIRECTIVE PROPERLY EXECUTED AFTER THE DATE OF THE ADVANCE  
5 HEALTH CARE DIRECTIVE THAT IS UPLOADED TO THE SYSTEM.

6 **SECTION 2. Act subject to petition - effective date.** This act  
7 takes effect at 12:01 a.m. on the day following the expiration of the  
8 ninety-day period after final adjournment of the general assembly (August  
9 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
10 referendum petition is filed pursuant to section 1 (3) of article V of the  
11 state constitution against this act or an item, section, or part of this act  
12 within such period, then the act, item, section, or part will not take effect  
13 unless approved by the people at the general election to be held in  
14 November 2020 and, in such case, will take effect on the date of the  
15 official declaration of the vote thereon by the governor."

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