

SENATE No. 1221

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act creating an advance directives registry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>

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By Ms. Spilka, a petition (accompanied by bill, Senate, No. 1221) of Karen E. Spilka, Tricia Farley-Bouvier, Carolyn C. Dykema, Patricia D. Jehlen and other members of the General Court for legislation to create an advance directives registry. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act creating an advance directives registry.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 17 of the General Laws, as appearing in the 2012 Official Edition,
2 is hereby amended by adding the following section:-

3 Section 20. (a) As used in this section, the following words shall, unless context clearly
4 requires otherwise, have the following meanings:- “Advance directive”, a written record, which
5 may include, but not be limited to, living wills, durable powers of attorney for health care,
6 appointment of a health-care proxy, identification of a preferred primary care clinician,
7 instructions on health care desires or treatment goals, medical orders for life sustaining
8 treatment, disposition of remains, funeral goods and services and documents designated under
9 section 5-501 of chapter 190B as a durable power of attorney for health care.

10 “Principal”, an adult who has executed an advance directive.

11 “Registry”, a secure, web-based database created by the commissioner to which
12 individuals may submit an advance directive or information regarding the location of an advance

13 directive that is accessible to principals and agents and, as needed, to health care providers,
14 health care facilities, residential care facilities, family and probate court officials and individuals
15 appointed to arrange for the disposition of remains including funeral directors, crematory
16 operators, cemetery officials, and the authorized employees thereof.

17 (b) The commissioner shall create at least 1 sample form of an advance directive with an
18 accompanying form providing an explanation of choices and responsibilities concerning advance
19 directives for patients and principals in all settings. The commissioner shall also provide, but
20 without the obligation to adopt a rule, optional forms for advance directives for individuals with
21 disabilities, limited English proficiency, and cognitive translation needs.

22 (c)(1) The commissioner shall develop and maintain a registry to which a principal may
23 submit his or her advance directive, including a durable power of attorney. The commissioner
24 shall adopt rules that describe when health care providers, health care facilities, residential care
25 facilities, family and probate court officials, and individuals appointed to arrange for the
26 disposition of remains may access an advance directive in the registry. In no event shall the
27 information in the registry be accessed or used for any purpose unrelated to decision-making for
28 health care or disposition of remains, except that the information may be used for statistical or
29 analytical purposes as long as the individual's identifying information remains confidential.

30 (2) The commissioner shall adopt rules on the process for securely submitting, revoking,
31 amending, replacing and accessing the information contained in the registry. The rules shall
32 provide for incorporation into the registry of notifications of amendment, suspension or
33 revocation of this section.

34 (3) The registry shall be connected to the statewide health information exchange for
35 purposes of submission of new and updated advance directives and for purposes of query and
36 retrieval of advance directives by authorized users of the statewide health information exchange.

37 (d) The commissioner shall provide on the department's public website information on
38 advance directives, the registry, and the sample forms of an advance directive.

39 (e) Every health care provider, health care facility and residential care facility shall
40 develop protocols to ensure that a principal's advance directive is promptly available when
41 services are to be provided and that the provider or facility checks the registry at the time any
42 individual is admitted or provided services to determine whether the individual has an advance
43 directive.

44 SECTION 2. Section 8 of chapter 90 of the General Laws, as appearing in the 2012
45 Official Edition, is hereby amended by inserting after the word "donor", in line 26, the following
46 words: - and whether he has an advance directive in the registry established in section 20 of
47 chapter 17.

48 SECTION 3. Said chapter 90 of the General Laws is hereby amended by inserting after
49 section 8D the following section:-

50 Section 8D½. The registrar shall ensure a suitable symbol is placed on to the license or
51 identity card of a person who has an advance directive in the registry established by section 20 of
52 chapter 17.

53 SECTION 4. Section 8E of said chapter 90, as appearing in the 2012 Official Edition, is
54 hereby amended by inserting after the word “donor”, in line 14, the following words:- and
55 whether he has an advance directive in the registry established in section 20 of chapter 17.

56 SECTION 5. Subsections (c) and (e) of section 20 of chapter 17 of the General Laws
57 shall take effect not later than December 31, 2016.

58 SECTION 6. Sections 2 through 4, inclusive, shall take effect on January 1, 2018.