

**REVISED PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R006-08

March 3, 2008

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

AUTHORITY: §§1-23, NRS 449.965.

A REGULATION relating to advance directives for health care; providing for the electronic storage of advance directives and advance directive locators in the Registry of Advance Directives for Health Care established by the Secretary of State; providing for the amendment, suspension, revocation and removal of advance directives and advance directive locators from the Registry; providing limitations on access to the Registry; and providing other matters properly relating thereto.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 23, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 14, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Advance directive” has the meaning ascribed to it in NRS 449.905.*

Sec. 4. *“Advance directive locator” means a document in the format prescribed by the Secretary of State that specifies the physical location of a person’s advance directive.*

Sec. 5. *“Agent” has the meaning ascribed to it in NRS 132.045.*

Sec. 6. *“Authorization to change form” means a document in the format prescribed by the Secretary of State that notifies the Secretary of State of the intent of a registrant or the agent of a registrant:*

1. To amend, suspend or revoke an advance directive or advance directive locator filed in the Registry; or

2. To remove or delete the registrant's file in the Registry.

Sec. 7. "Authorized provider" means a provider of health care who has been approved by the Secretary of State for access to the Registry pursuant to section 21 of this regulation.

Sec. 8. "Provider access application and agreement" means a document in the format prescribed by the Secretary of State which is filed with the Secretary of State by a provider of health care who wishes to become an authorized provider and which sets forth the rights and responsibilities of an authorized provider with respect to his use of the Registry.

Sec. 9. "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 10. "Registrant" has the meaning ascribed to it in NRS 449.910.

Sec. 11. "Registrant's file" means the individual file of a registrant which is maintained in the Registry and which:

1. Contains the registration information and advance directive of the registrant;

2. May contain an advance directive locator, any amendment, suspension or revocation of an advance directive or advance directive locator, any other document submitted by a registrant concerning his health care preferences and any other document authorized by a specific statute or regulation; and

3. Is accessible to the registrant and authorized persons and entities.

Sec. 12. "Registration agreement" means a document in the format prescribed by the Secretary of State which is submitted by a registrant to the Secretary of State and which authorizes the Secretary of State to scan and store electronically the advance directive of the

registrant in the Registry for retrieval in accordance with the provisions of NRS 449.900 to 449.965, inclusive, and sections 2 to 23, inclusive, of this regulation.

Sec. 13. *“Registry” has the meaning ascribed to it in NRS 449.915.*

Sec. 14. *“Request for registration access form” means a document in the format prescribed by the Secretary of State which is submitted by a registrant to the Secretary of State and which requests that the registrant be provided with a duplicate registration card or other access to the registration number and password assigned to the registrant by the Secretary of State.*

Sec. 15. *1. The Secretary of State will prescribe the format of:*

- (a) Advance directive locators;*
- (b) Authorization to change forms;*
- (c) Provider access applications and agreements;*
- (d) Registration agreements; and*
- (e) Request for registration access forms.*

2. The Secretary of State may prescribe the format of such additional documents as the Secretary of State determines necessary.

Sec. 16. *1. A registrant may store in the registrant’s file in the Registry an electronic reproduction of an advance directive, advance directive locator or other document which amends, suspends or revokes an advance directive or advance directive locator or which provides information regarding the health care preferences of the registrant.*

2. The Registry may be accessed on the Internet at www.LivingWillLockbox.com or www.NVSOS.gov.

Sec. 17. *1. A person who wishes to file an advance directive or advance directive locator in the Registry must submit to the Secretary of State:*

- (a) A copy of the advance directive or advance directive locator; and*
- (b) A properly executed registration agreement.*

2. If the registration agreement is incomplete or not properly executed by the person or his agent, the Secretary of State will reject the filing and, to the extent practicable, notify the person in writing of the reason for the rejection.

3. A person may execute one or more parts of the advance directive or may designate an agent to act on his behalf. A registration agreement submitted by an agent must include a declaration that the agent is legally authorized to represent or act on behalf of the registrant to make decisions concerning the health care of the registrant.

4. Upon receipt of a properly executed registration agreement and an advance directive or advance directive locator, the Secretary of State will:

- (a) File the advance directive or advance directive locator in the Registry; and*
- (b) Send to the registrant by United States mail:*
 - (1) A letter confirming receipt of the advance directive or advance directive locator;*
 - (2) A registration card issued by the Secretary of State containing a unique registration number and password with which the registrant may access the Registry; and*
 - (3) Any other material determined necessary by the Secretary of State.*

5. If a registration card issued by the Secretary of State pursuant to subsection 4 is lost, stolen, destroyed or otherwise unavailable, a registrant may request a duplicate registration card or other access to the registration number and password of the registrant. To receive a

duplicate registration card or other access, the registrant must provide the Secretary of State with sufficient information to identify the registrant on a request for registration access form.

6. A registrant shall keep the registrant's file in the Registry current.

7. The Secretary of State may, on an annual basis, send a notice to each registrant requesting the registrant to review and confirm that the information contained in the registrant's file in the Registry is current.

Sec. 18. *1. A registrant or an agent of a registrant who wishes to amend, suspend or revoke an advance directive or advance directive locator filed in the Registry must execute and submit to the Secretary of State an authorization to change form containing the registration number of the registrant or other information sufficient to ensure identification of the registrant.*

2. Upon receipt of a properly executed authorization to change form, the Secretary of State will file the documentation in the Registry, and the amendment, suspension or revocation takes precedence over any previously submitted document.

3. The validity of a properly executed amendment, suspension or revocation of an advance directive or advance directive locator is not affected by the lack of notification or filing with the Secretary of State.

Sec. 19. *1. A registrant or his agent may remove or delete the registrant's file in the Registry by submitting to the Secretary of State an authorization to change form.*

2. A registrant or his agent may replace the registrant's file in the Registry by submitting to the Secretary of State a new and properly executed advance directive or advance directive locator accompanied by an authorization to change form.

Sec. 20. *An authorization to change form submitted by an agent must include a declaration that the agent is legally authorized to represent or act on behalf of the registrant to make decisions concerning the health care of the registrant.*

Sec. 21. 1. *A provider of health care who wishes to become an authorized provider must submit to the Secretary of State a provider access application and agreement.*

2. Upon approval of an authorized provider, the Secretary of State will issue to the authorized provider a unique identification number and access code for the Registry.

Sec. 22. 1. *An authorized provider who is issued a unique identification number and access code pursuant to section 21 of this regulation shall protect the identification number and access code and establish internal controls which limit access to the identification number and access code to his employees who have authorization to access the Registry.*

2. An authorized provider shall train his employees on the proper use of the Registry and access to registrants' files and report to the Secretary of State any unauthorized access or misuse of information in the Registry.

3. The Secretary of State may audit the use of the Registry by an authorized provider and his employees.

Sec. 23. 1. *Access to the Registry or information contained therein will be provided only in accordance with the provisions of NRS 449.930 or any other specific statute, including, without limitation, for purposes relating to any study of the Registry required by the Legislature. Any natural person or entity that is provided with access to the Registry for statistical or analytical purposes relating to such a study shall ensure that all identifying information contained in the Registry concerning registrants remains confidential and that no laws concerning privacy are violated.*

2. A person shall not access the Registry for any unauthorized purpose.

3. The Secretary of State will ensure that each instance of access of a registrant's file in the Registry is entered in a record maintained in the Registry under the name of the registrant.

The record must contain:

(a) The date and time of access; and

(b) If the registrant's file is accessed by any means other than the registration number and password of the registrant, the identification number of the natural person or entity accessing the registrant's file.