

COMMONWEALTH OF VIRGINIA ADVANCE HEALTH CARE DIRECTIVE REGISTRY (AHCDR)

By Elizabeth Bircher
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I. What it is –

- a. An online, Internet-accessible site to store and retrieve health care decision-related documents
 - i. Health care Power of Attorney
 - ii. Advance Directive created pursuant to Article 8 (§ 54.1-2981 et seq.), aka the “Health Care Decisions Act”
 - iii. Declaration of Anatomical Gift made pursuant to the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.).
- b. Public Private Partnership
 - i. Virginia Department of Health
 - ii. Microsoft® HealthVault®
 - iii. UNIVAL, Inc.
- c. <https://www.virginiaregistry.org>
- d. Launched December 2011
- e. Limited to Virginia residents
- f. Has links to Virginia State Bar forms and FAQ’s
 - i. “Health Care Decisions Day” information
- g. Additional links of the tool bar
 - i. VHHA (Virginia Hospital & Healthcare Association)
 - ii. Microsoft HealthVault
 - iii. Donate Life Virginia (Organ, Eye, and Tissue Donor Registry)
 - iv. Privacy & Security information
 - v. Terms & Conditions information
 - vi. Registry Help information
- h. Comparison to other states -- Searched “Advance Health Care Directive Registry”
 - i. Arizona, North Carolina, and California
 - ii. Secretary of State manages
 - iii. Filing fees are \$10 per document or less
 - iv. North Carolina allows attorneys to register documents

II. Legislative Background

- a. Legislative authorization granted in 2008. (2008, cc. 301, 696.)
- b. § 54.1-2994. *Advance Health Care Directive Registry established.* The Department of Health shall make available a secure online central registry for advance health care directives.
- c. § 54.1-2995. *Filing of documents with the registry; regulations; fees.*
 - i. Specifies the documents that can be submitted to the Virginia Department of Health.
 - ii. Only person who executed the documents may submit them
 - iii. Documents submitted shall be accompanied by any fee required by the Department of Health (at present, the service does not charge a fee)
 - iv. Requires data and information to be kept confidential and be exempt from Virginia FOIA
 - v. Board of Health promulgates regulations pertaining to the provisions of this article, including who may access, annual reminders for registrants, setting fees
 - vi. Does not allow fee to be charged for revoking previously filed documents
- d. § 54.1-2996. *Validity of unregistered documents.*
 - i. Registration is not necessary for documents to be valid.
 - ii. As long as a revocation is valid under statute, it is valid even if the Department of Health is not notified

III. REGISTRATION AND USE

- a. Access site through the Virginia Department of Health or directly to the [Virginiaregistry.org](https://www.virginiaregistry.org) site
- b. Uses https, which indicates heightened security
- c. Set up account

- i. Name
 - ii. PIN
 - iii. Password
- d. Can select up to 5 email addresses with whom to share the PIN and access code for view access
 - i. To restrict the access, user must change PIN
- e. Document additions
 - i. Upload
 - 1. .pdf or .tif formats
 - ii. Fax
 - 1. Can create fax cover page to print
 - 2. Fax documents to toll-free number maintained by Unival
- f. Support
 - i. Toll-free telephone number
 - ii. Unival runs help desk
 - iii. Monday – Friday; 8 am – 5 pm
 - iv. May need to leave a message and wait for a return call
- g. Wallet cards
 - i. Supposed to be sent once document is uploaded
- h. Terms and Conditions
 - i. 5 printed pages long
 - ii. user is advised to check for changes each time the user visits the AHCDR’s website as changes made be made w/o notice to the user
 - iii. Prohibits false information; user agrees to update or correct information previously provided if information is outdated or misleading
 - 1. Need to upload new documents when changes are made
 - 2. Agent change or changed information
 - iv. Ownership and Intellectual Property Rights section includes the following (as of February 12, 2012):

“With respect to all the materials on this site, you may not copy, modify, publish, transmit, distribute, perform, display, or sell any such information, except for healthcare providers who may make a copy of an advance directive that they have properly accessed for use in connection with the treatment of the patient named in the advance directive. [what about including registrants (and other types of authorized users?) in the foregoing exception – can’t they use the website to get a copy?]”
- i. Privacy Information
 - i. Virginia Department of Health provides the registry
 - ii. UNIVAL, Inc. hosts
 - 1. Uses contact information to provide news, information about new features, services or updates to the user
 - 2. Tailors the user experience to show “content they might be interested in”
 - 3. May contract with other companies or individuals, use contracts to limit use of data, but have no control over how it is used
 - 4. Note a yearly renewal requirement for Advance Directive
 - a. Will sent renewal reminder
 - b. If no reply w/in 6 months, account is deactivated
 - c. Data archived for 5 years unless a registered user asks it be deleted
 - 5. Note to not share login information with anyone that the user does not have to have complete access to the users personal health information
 - 6. Complies with HIPAA to the extent HIPAA applies to a non-covered entity
 - 7. Utilizes session cookies to tailor experience, uses IP address; removes session cookies at session end

§ 54.1-2994. *(For contingent effective date - see Editor's note) Advance Health Care Directive Registry established.*
The Department of Health shall make available a secure online central registry for advance health care directives. (2008, cc. [301](#), [696](#).)

§ 54.1-2995. *(For contingent effective date - see Editor's note) Filing of documents with the registry; regulations; fees.*

A. A person may submit any of the following documents and the revocations of these documents to the Department of Health for filing in the Advance Health Care Directive Registry established pursuant to this article:

1. A health care power of attorney.
2. An advance directive created pursuant to Article 8 (§ [54.1-2981](#) et seq.) or a subsequent act of the General Assembly.
3. A declaration of an anatomical gift made pursuant to the Revised Uniform Anatomical Gift Act (§ [32.1-291.1](#) et seq.).

B. The document may be submitted for filing only by the person who executed the document and shall be accompanied by any fee required by the Department of Health.

C. All data and information contained in the registry shall remain confidential and shall be exempt from the provisions of the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.).

D. The Board of Health shall promulgate regulations to carry out the provisions of this article, which shall include, but not be limited to (i) a determination of who may access the registry, including physicians, other licensed health care providers, the declarant, and his legal representative or designee; (ii) a means of annually reminding registry users of which documents they have registered; and (iii) fees for filing a document with the registry. Such fees shall not exceed the direct costs associated with development and maintenance of the registry and with the education of the public about the availability of the registry, and shall be exempt from statewide indirect costs charged and collected by the Department of Accounts. No fee shall be charged for the filing of a document revoking any document previously filed with the registry. (2008, cc. [301](#), [696](#); 2010, c. [16](#).)

§ 54.1-2996. *(For contingent effective date - see Editor's note) Validity of unregistered documents.*

Failure to register a document with the registry maintained by the Department of Health pursuant to this article shall not affect the document's validity. Failure to notify the Department of Health of the revocation of a document filed with the registry shall not affect the validity of a revocation that meets the statutory requirements for the revocation to be valid.
(2008, cc. [301](#), [696](#).)