



MARYLAND
Health Care
Commission



Electronic Advance Directives in Maryland

Updated April 2023



What is an Advance Directive?

- ▶ A useful, legal way for an individual (or declarant) to specify medical care they want or do not want, particularly treatment preferences in an emergency or near end of life
 - Can include the name of a health care agent (or proxy) to make decisions for a declarant if they are unable to do so themselves
- ▶ **Electronic advance directives** allow this important information to be created, updated, and shared securely with treating health care providers



BACKGROUND



Timeline

- ▶ **2011** – The Maryland Health Care Commission (MHCC) was awarded \$1.6 million by the Office of the National Coordinator for Health Information Technology (ONC) to explore options to facilitate the availability of electronic advance directives
- ▶ **2012** – The Secretary of the Maryland Department of Health (MDH) provided MHCC with additional startup funding to pilot the exchange of electronic advance directives through the State-Designated Health Information Exchange (HIE), the Chesapeake Regional Information System for our Patients (CRISP)



Timeline *(Continued...)*

- ▶ **2013** – The MHCC issued a Request for Proposals to identify a vendor to implement a statewide electronic advance directives system that health care providers could access through CRISP; ADVault (dba MyDirectives.com) was competitively selected to collaborate with CRISP to build an interface between its cloud-based advance directive service and CRISP
- ▶ **2014** – An interface between the ADVault repository and CRISP was launched
- ▶ **2015, 2016, 2017, and 2022** – Legislation passed aiming to expand use of cloud-based technology to support diffusion of electronic advance directives statewide and requiring MHCC to coordinate accessibility of advance care planning documents in the State



LEGISLATION



Key Elements of the Law

- ▶ **House Bill 1106, *Public Health - Electronic Advance Directives - Witness Requirements (2015)*** – requires two witnesses for electronic signature on an advance directive outside the presence of the declarant who signed the advance directive if it was created in compliance with electronic witness protocols of MDH
- ▶ **House Bill 1385, *Public Health - Advance Directives - Procedures, Information Sheet, and Use of Electronic Advance Directives (2016)*** – alters witness requirements for an electronic advance directive and expands the scope of education and outreach efforts, includes development of and requires content for an advance directive information sheet and the distribution process; requires MHCC to develop a State Recognition Program for electronic advance directives services (or vendors)



Key Elements of the Law *(Continued...)*

- ▶ **House Bill 0188, *Public Health – Advance Directives – Witness Requirements, Advance Directives Services, and Fund (2017)*** – clarifies the definition of an advance directive; clarifies that MDH may contract with one or more vendors; establishes a non-lapsing Advance Directives Program Fund
- ▶ **House Bill 1073, *Health – Accessibility of Electronic Advance Care Planning Documents (2022)*** – requires certain health care facilities, managed care organizations, and carriers to take certain actions relating to advance care planning; alters required content on the advance directive information sheet; requires reporting by the Motor Vehicle Administration on the implementation of certain provisions; requires development and implementation of quality measures; ensures equal access to advance care planning for individuals with disabilities



REGULATIONS



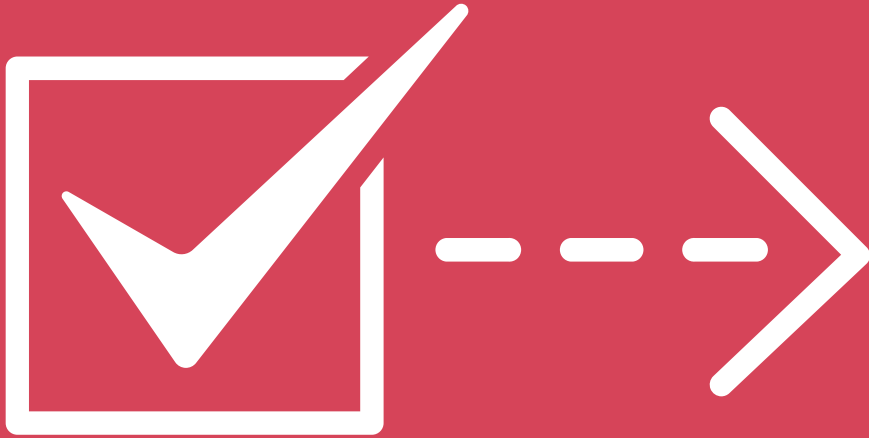
Development

- ▶ The MHCC and MDH formed two workgroups in the fall of 2016:
 1. Criteria and Connectivity
 2. Engagement and Special Issues
- ▶ Workgroups met to discuss various policy matters related to electronic advance directives
- ▶ Feedback from the workgroups was considered in developing regulations and vendor criteria for State Recognition





Adoption



- ▶ COMAR 10.25.19: *State Recognition of an Electronic Advance Directives Service* became effective March 12, 2018 and was amended January 9, 2023
- ▶ The regulations outline program procedures for State Recognition of an electronic advance directives service including processes for developing vendor criteria
- ▶ Vendor criteria includes standards for privacy and security; auditing and compliance; and education, reporting, and technical provisions; some of which are required by state and/or federal law



STATE RECOGNITION OF AN ELECTRONIC ADVANCE DIRECTIVES SERVICE

About State Recognition



- ▶ Available to vendors offering an electronic advance directives service that provides consumers the option to create, upload, share, and update their advance directive
- ▶ Demonstrates a vendor meets certain criteria or standards for privacy and security, independent audits, education, reporting, and technical provisions
- ▶ A prerequisite for a vendor to integrate with CRISP
- ▶ Valid for three years, unless suspended or revoked by MHCC

Vendor Criteria and Application



- ▶ Vendor **criteria** for State Recognition is available [*here*](#)
- ▶ The **application** for State Recognition of an Electronic Advance Directives Services can be found [*here*](#)





INFORMATION SHEET



Overview

- ▶ State law requires development of an information sheet with specific written statements, including options for creating an electronic advance directive

- ▶ The information sheet was made available to:
 - Select State agencies
 - Payors
 - Providers
 - Professional associations
 - CRISP

Communications Toolkit



**Your Life,
Your Decisions**

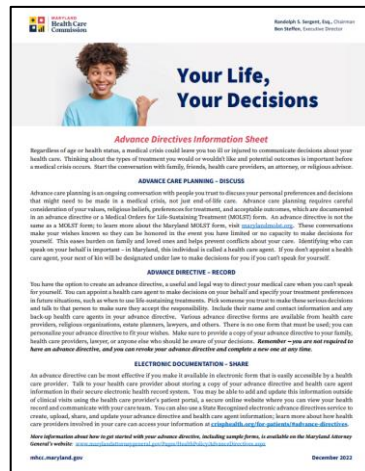
The communications toolkit is available at:

mhcc.maryland.gov/mhcc/Pages/hit/hit_advancedirectives/hit_advancedirectives_communications_toolkit.aspx

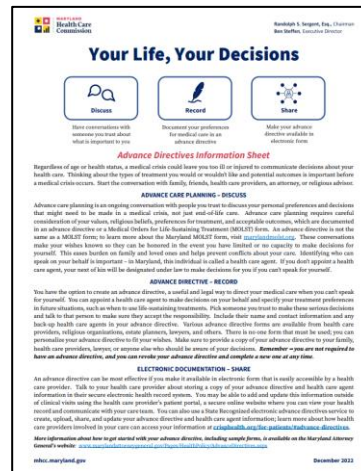
- ▶ Supports promotion of the *Advance Directive Information Sheet*
- ▶ Includes sample website language, social media posts, and downloadable images to consider when sharing

The MHCC is encouraging stakeholders to use the hashtag **#YourLifeYourDecisions** when sharing the information sheet on social media

Options and Sample Language for Websites



Option 1



Option 2

Advance Care Planning: Understand Your Options

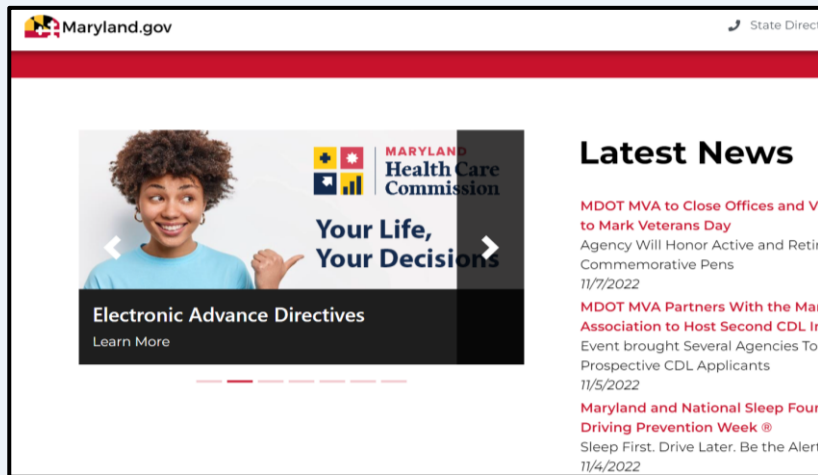
Advance care planning is a widely recognized way to support patient self-determination, facilitate decision making, and promote better care at the end of life ([AMA](#)). Regardless of health status, everyone over the age of 18 is encouraged to think about and document their values and treatment preferences to guide future medical decisions about their care. This includes appointing a health care agent. Refer to the *Advance Directives Information Sheet* for more information on the advance care planning process and how to create an electronic advance directive.

*Note: **The Advance Directives Information Sheet** is available in two options. Both options contain the same content; the only difference is how they are formatted.

Website Placement – Stakeholder Examples



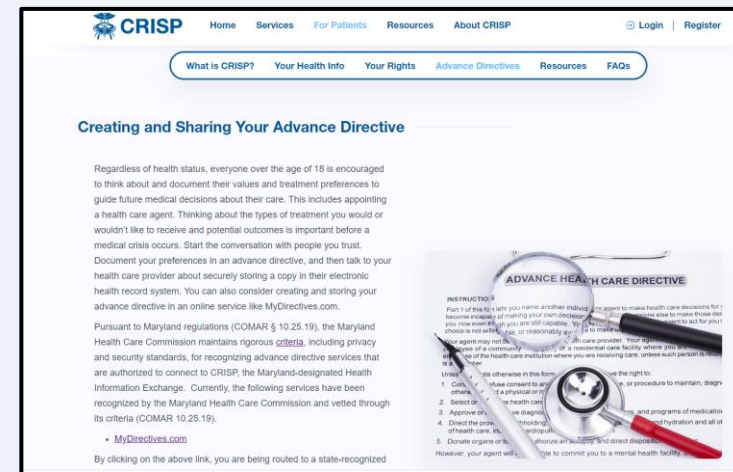
MVA mva.maryland.gov



Locations:

- ▶ Newsfeed on [homepage](#) (pictured above)
- ▶ Linked on the [driver service information webpage](#)

CRISP www.crisphealth.org



Locations:

- ▶ [Patient-facing webpage](#) (pictured above)
- ▶ [Provider-facing webpage](#)
- ▶ Callout box on [homepage](#)



More Information

For more information on the State Recognition Program and resources about advance directives, visit [MHCC's website](#) or contact adstaterecognition@maryland.gov