Increasing Access to Electronic Advance Directives in Maryland
Value

• An advance directive is a useful, legal way for an individual (or declarant) to direct their medical care, 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 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 Proposal 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 the CRISP Query Portal.

• 2014 – An interface between the MyDirectives.com repository and CRISP was launched.

• 2015 through 2017 – Legislation was introduced to expand use of cloud-based technology to support diffusion of electronic advance directives statewide.
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, including required content of 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
An Advance Directives Program Fund established in 2017 supports costs for vendor integrations with CRISP and outreach and education efforts.
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 draft 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

• 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
More Information

For more information on the State Recognition Program and resources about advance directives, visit:

mhcc.maryland.gov/mhcc/pages/hit/hit_advancedirectives/hit_advancedirectives.aspx

or contact

adstaterecognition@maryland.gov