



## **MEMORANDUM**

**DATE:** December 15, 2022

**TO:** Commissioners

**FROM:** David Sharp  
Director, Center for Health Information Technology & Innovative Care Delivery

**RE:** Final Action - Amendments to COMAR 10.25.19, *State Recognition of an Electronic Advance Directives Service* and Criteria for State Recognition

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### **Background**

State law (2017 Chapter 667) required the Maryland Health Care Commission (MHCC) to develop a State Recognition Program for electronic advance directives services (vendors). The law aims to facilitate use of cloud-based technology to support creation of and accessibility to electronic advance directives. State Recognition demonstrates a vendor meets certain criteria related to privacy and security.

The MHCC worked collaboratively with stakeholders to develop regulations and vendor criteria for State Recognition. COMAR 10.25.19: *State Recognition of an Electronic Advance Directives Service*, outlines program procedures for State Recognition, a prerequisite for connecting to the State-Designated HIE (CRISP). State Recognition is valid for three years, unless suspended or revoked by MHCC. Since 2018, ADVault, Inc. dba MyDirectives.com has received and maintained MHCC State Recognition status.

### **Changes to the Regulations and Criteria for State Recognition**

During the 2022 session of the Maryland General Assembly, Chapter 312 (Senate Bill 824), *Health – Accessibility of Electronic Advance Care Planning Documents*, was passed repealing a requirement that vendors implement a certain electronic authorization guideline (National Institute of Standards and Technology Special Publication 800–63–2: Electronic Authentication Guideline or subsequent replacement publications to 800-63) to connect to CRISP. Final amendments to COMAR 10.25.19 align with the law. Staff also made several non-technical changes under the regulations to remove reference to the electronic authentication guideline; change the frequency of vendor reporting to MHCC from quarterly to bi-annually; and add select consumer education content as it relates to a vendor’s State Recognition status.

### **Formal Comments**

Criteria for State Recognition was posted in the Maryland Register on August 26, 2022, and on MHCC’s website for comment. On September 23, 2022, proposed amendments were published in the Maryland Register for a 30-day formal comment period. No comments were received.

### **Staff Recommendation**

Staff recommends the Commission approve amendments to COMAR 10.25.19: *State Recognition of an Electronic Advance Directives Service* and Criteria for State Recognition as final.