

## Assembly Bill No. 2805

### CHAPTER 579

An act to amend Section 4673 of the Probate Code, relating to advanced health care directives, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2006. Filed with  
Secretary of State September 28, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2805, Blakeslee. Advanced health care directives.

Existing law provides that a written advanced health care directive is legally sufficient if it meets certain requirements, including the requirement that the directive is signed either by the patient or in the patient's name by another adult in the patient's presence and at the patient's direction. Existing law also requires that the directive be acknowledged by a notary public or signed by two witnesses, as specified.

This bill would provide that an electronic advance health care directive or a power of attorney for health care is legally sufficient if the existing requirements for directives are satisfied, the directive is acknowledged before a notary public, and any digital signatures used meet specified requirements.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4673 of the Probate Code is amended to read:

4673. (a) A written advance health care directive is legally sufficient if all of the following requirements are satisfied:

- (1) The advance directive contains the date of its execution.
- (2) The advance directive is signed either by the patient or in the patient's name by another adult in the patient's presence and at the patient's direction.
- (3) The advance directive is either acknowledged before a notary public or signed by at least two witnesses who satisfy the requirements of Sections 4674 and 4675.

(b) An electronic advance health care directive or power of attorney for health care is legally sufficient if the requirements in subdivision (a) are satisfied, except that for the purposes of paragraph (3) of subdivision (a), an acknowledgment before a notary public shall be required, and if a digital signature is used, it meets all of the following requirements:

(1) The digital signature either meets the requirements of Section 16.5 of the Government Code and Chapter 10 (commencing with Section 22000) of Division 7 of Title 2 of the California Code of Regulations or the digital signature uses an algorithm approved by the National Institute of Standards and Technology.

(2) The digital signature is unique to the person using it.

(3) The digital signature is capable of verification.

(4) The digital signature is under the sole control of the person using it.

(5) The digital signature is linked to data in such a manner that if the data are changed, the digital signature is invalidated.

(6) The digital signature persists with the document and not by association in separate files.

(7) The digital signature is bound to a digital certificate.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the end-of-life decisions of individuals who use digital signatures to sign advanced health care directive are honored and legally valid, it is necessary that this act take effect immediately.