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# A BILL FOR AN ACT

RELATING TO PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4   **"CHAPTER**

5                           **PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT**

6           **§ -1 Definitions.** As used in this chapter, unless the  
7 context otherwise requires:

8           "Department" means the department of health.

9           "Form" means a physician orders for life-sustaining  
10 treatment form adopted by the department.

11           "Health care provider" means an individual licensed,  
12 certified, or otherwise authorized or permitted by law to  
13 provide health care in the ordinary course of the individual's  
14 business or profession.

15           "Patient's physician" means a physician licensed pursuant  
16 to chapter 453 who has examined the patient.



1 "Physician orders for life-sustaining treatment form" means  
2 a form signed by a patient, or if incapacitated, by the  
3 patient's surrogate and the patient's physician, that records  
4 the patient's wishes and that directs a health care provider  
5 regarding the provision of resuscitative and life-sustaining  
6 measures. A physician orders for life-sustaining treatment form  
7 is not an advance health-care directive.

8 "Surrogate" shall have the same meaning as in section 327E-  
9 2.

10 **§ -2 Physician orders for life-sustaining treatment**  
11 **form; execution; explanation; compliance; revocation.** (a) The  
12 following may execute a form:

- 13 (1) The patient;  
14 (2) The patient's physician; and  
15 (3) The surrogate, but only if the patient:  
16 (A) Lacks capacity; or  
17 (B) Has designated that the surrogate is authorized  
18 to execute the form.

19 The patient's physician may medically evaluate the patient and,  
20 based upon the evaluation, may recommend new orders consistent  
21 with the most current information available about the  
22 individual's health status and goals of care. The patient's



1 physician shall consult with the patient or the patient's  
2 surrogate before issuing any new orders on a form. The patient  
3 or the patient's surrogate may choose to execute or not execute  
4 any new form. If a patient is incapacitated, the patient's  
5 surrogate shall consult with the patient's physician before  
6 requesting the patient's physician to modify treatment orders on  
7 the form. To be valid, a form shall be signed by the patient's  
8 physician and the patient, or the patient's physician and the  
9 patient's surrogate. At any time, a patient, or, if

10 incapacitated, the patient's surrogate, may request alternative  
11 treatment that differs from the treatment indicated on the form.

12 (b) The patient's physician or a health care provider  
13 shall explain to the patient the nature and content of the form,  
14 including any medical intervention or procedures, and shall also  
15 explain the difference between an advance health-care directive  
16 and the form. The form shall be prepared by the patient's  
17 physician or a health care provider based on the patient's  
18 preferences and medical indications.

19 (c) Any health care provider, including the patient's  
20 physician, emergency medical services personnel, and emergency  
21 physicians shall comply with a properly executed and signed form  
22 and treat the patient according to the orders on the form;



1 provided that compliance shall not be required if the orders on  
2 the form request medically ineffective health care or health  
3 care that is contrary to generally accepted health care  
4 standards.

5 (d) A patient having capacity, or, if the patient is  
6 incapacitated, the patient's surrogate, may revoke a form at any  
7 time and in any manner that communicates intent to revoke.

8 **§ -3 Immunity.** (a) No physician, health care  
9 professional, nurse's aide, hospice provider, home care  
10 provider, including private duty and medicare home health  
11 providers, emergency medical services provider, adult  
12 residential care home operator, skilled nursing facility  
13 operator, hospital, or person employed by or under contract with  
14 a hospital shall be subject to criminal prosecution, civil  
15 liability, or be deemed to have engaged in unprofessional  
16 conduct for:

17 (1) Carrying out in good faith, a decision regarding  
18 treatment orders, including cardiopulmonary  
19 resuscitation by or on behalf of a patient pursuant to  
20 orders in a form and in compliance with the standards  
21 and procedures set forth in this chapter; or



1           (2) Providing cardiopulmonary resuscitation to a patient  
2           for whom an order not to resuscitate has been issued  
3           on a form; provided the person reasonably and in good  
4           faith:

5           (A) Was unaware of the issuance of an order not to  
6           resuscitate; or

7           (B) Believed that any consent to treatment orders,  
8           including the order not to resuscitate, had been  
9           revoked or canceled.

10          (b) No person shall be subject to criminal prosecution or  
11          civil liability for consenting or declining to consent, in good  
12          faith and on behalf of a patient, to the issuance of an order  
13          not to resuscitate pursuant to this chapter.

14          **§ -4 Rules.** The director of health may adopt rules in  
15          accordance with chapter 91 to carry out this chapter."

16          SECTION 2. This Act shall take effect upon its approval.



H.B. NO. 1379  
H.D. 2  
S.D. 2  
C.D. 1

**Report Title:**

Physician Orders for Life-Sustaining Treatment

**Description:**

Creates a process for a patient to direct end-of-life treatment in a standardized physician orders for life-sustaining form.

(HB1379 CD1)

