

HB 1379 HD 2

**Measure
Title:**

**RELATING TO PHYSICIAN ORDERS
FOR LIFE SUSTAINING
TREATMENT.**

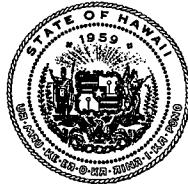
**Report
Title:**

**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
HD2)**

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

SENATE COMMITTEE ON HEALTH

**HB 1379, HD 2, RELATING TO PHYSICIAN ORDERS FOR LIFE SUSTAINING
TREATMENT**

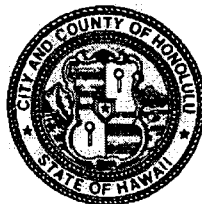
**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

**March 20, 2009
3:00 PM**

- 1 **Department's Position:** The Department of Health supports HB 1379, HD 2 as currently written.
- 2 **Fiscal Implications:** None.
- 3 **Purpose and Justification:** The Department is part of the stakeholder group working to reach
- 4 agreement on this proposal. With the amendments contained in House Draft 2, the Department's earlier
- 5 concerns expressed in previous testimony have been addressed. As a result we support this measure in
- 6 its current version.
- 7 Thank you for the opportunity to submit testimony.

HONOLULU EMERGENCY SERVICES DEPARTMENT
CITY AND COUNTY OF HONOLULU

3375 KOAPAKA STREET, SUITE H-450 • HONOLULU, HAWAII 96819-1869
Phone: (808) 723-7800 • Fax: (808) 833-3934



MUFI HANNEMANN
MAYOR

ELIZABETH A. CHAR, M.D.
DIRECTOR

March 19, 2009

The Honorable David Y. Ige, Chair
and Members
The Honorable Josh Green
and Members
Committee on Health
The Senate
Twenty-Fifth Legislature
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: HB1379 HD2, Relating to Physician Orders for Life Sustaining Treatment

Dear Chair Ige, Vice Chair Green and Committee Members:

HB 1379 HD 2 seeks to clarify and amend HB 3126, which was passed in 2006. The Honolulu Emergency Services Department, City and County of Honolulu, is in favor of this bill as it will allow people to make their wishes known and die a natural death with measures to ensure comfort care if they so choose.

Currently, Emergency Medical Services (EMS) personnel are mandated to attempt resuscitation unless the person has a state issued comfort care only; do not attempt resuscitation (CCO-DNAR) bracelet or necklace. The difficulty with this is that in order for the person to obtain one of these bracelets, the person must have a terminal condition and apply through the State Department of Health, via the State EMS office, with a form filled out by their physician. POLST will be a form that can be obtained in a multitude of locations or even via the internet and the form can be signed after a discussion with one's physician.

Many members in our community mistakenly think that having a living will is enough to prevent an unwanted attempt at resuscitation by emergency responders. POSLT will help to ensure that if the person prefers to die a natural death, comfort care can be given by EMS personnel and that person's wishes can be respected.

Thank you for the opportunity to testify on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "E.A. Char".

Elizabeth A. Char, M.D., Director
Honolulu Emergency Services Department



SENATE COMMITTEE ON HEALTH
Senator David Ige, Chair

Conference Room 016
March 20, 2009 at 3:00 p.m.

Testimony in support of HB 1379 HD 2.

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including acute care hospitals, two-thirds of the long term care beds in Hawaii, as well as home care and hospice providers. Thank you for this opportunity to testify in support of HB 1379 HD 2, which creates a Physician Orders for Life Sustaining Treatment (POLST) that describes an individual's wishes regarding end-of-life care.

In recent years various types of advance health care directives have been developed so that individuals can make known to health care providers the kind of medical care they desire. For example, many people now have a living will that describes what kind of medical care they want at the end of their lives.

In 2006 a bill was sponsored by advocates who intended to establish a POLST system. The bill was enacted, but a subsequent legal review limited its authority to the creation of a "comfort care only – do not resuscitate" (CCO-DNR) document.

A CCO-DNR document is simply a "yes or no" answer to the question of whether resuscitation should be initiated by a health care provider if a person is found to be without a pulse or breathing. A POLST document is much more detailed, distilling orders of a person's advance directives and representing a discussion between the patient and the patient's physician. As such, the POLST document typically goes far beyond the question of whether or not to resuscitate if there is no pulse or breath and more comprehensively details the individual's wishes.

For the foregoing reasons, the Healthcare Association supports HB 1379 HD 2.



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Touching Lives Every Day"

**Senate Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, M.D., Vice Chair**

Friday, March 20, 2009
3:00 PM
Conference Room 016
Hawaii State Capitol

**Written Comments on HB 1379HD2 Relating to Physician Orders for Life
Sustaining Treatment**

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

Thomas M. Driskill, Jr.
President and Chief Executive Officer
Hawaii Health Systems Corporation (HHSC)

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for this opportunity to testify on HB1379 HD2.

HB1379 HD2 would create a process for a patient to direct end-of-life treatment in a standardized physician orders for life sustaining form, would require the Department of Health to design the form, and would require the Department of Health and Hawaii Health Systems Corporation to require adoption of the form in their respective health facilities.

We appreciate the intent of this bill to facilitate end-of-life treatment but are concerned this would be an inappropriate intrusion by management and government into medical staff affairs. Respectfully, therefore, we ask that this bill be held.

Thank you for allowing us the opportunity to testify on this matter.

3675 KILAUEA AVENUE • HONOLULU, HAWAII 96816 • PHONE: (808) 733-4020 • FAX: (808) 733-4028

HILO • HONOKAA • KAU • KONA • KOHALA • WAIMEA • KAPAA • WAILUKU • KULA • LANAI • HONOLULU
www.hhsc.org <<http://www.hhsc.org>>



KOKUA KALIHI VALLEY

Comprehensive Family Services

2239 North School Street, Honolulu, Hawaii 96819

Phone (808) 791-9400 ♦ Fax (808) 848-0979

March 16, 2009

Committee on Health
Hearing on Friday March 20, 2009 at 3pm
Conference Room 016

RE: Testimony in Support of HB 1379

Dear Chair Ige:

I am writing to testify in strong support for HB 1379, relating to physicians orders for life sustaining treatment (POLST). I am a physician working at Kokua Kalihi Valley, Kalihi Palama Health Center, IHS HealthCare For the Homeless Project and the Aloha Medical Mission. I am board certified in hospice and palliative medicine and oversee a home-based palliative care program at Kokua Kalihi Valley.

Presently in Hawaii, the system for comfort care is an ineffective "comfort care only" bracelet with a standard document. It takes too long to get a Comfort Care Only/Do Not Resuscitate bracelet as this has to be ordered from the mainland and only one pharmacy on the island orders it. With POLST the wishes of the person cared for by emergency medical personnel, first responders and health care providers throughout the state would be clearly known. This uniform document can be written as physician's orders, which will eliminate confusion over the time spent translating other forms into medical orders.

Please do the right thing and pass HB 1379. Thank you for the opportunity to testify.

Sincerely,

Ritabelle Fernandes, MD, MPH, FACP
Hospice and Palliative Medicine Physician

To: **Senator David Ige, Chair**
Senator Josh Green, MD, Vice-Chair
Senate Committee on Health

From: Daniel Fischberg, MD, PhD

Subject: **Support of HB 1379, Relating to Physicians Orders for Life Sustaining Treatments**

My name is Daniel Fischberg, and I am a physician specializing in pain management and palliative care. In this capacity I care for hundreds of terminally ill patients each year, mostly in the acute hospital setting. **I am testifying in strong support of HB 1379, Relating to Physicians Orders for Life Sustaining Treatments**, which would replace an ineffective "comfort care only" bracelet system with a standard document that clearly states the wishes of the person cared for by emergency medical personnel, first responders and health care providers throughout the state.

I respect that the committee members likely already recognize the shortcomings of the current Comfort Care Only/Do Not Resuscitate bracelet: after all, legislation to improve this system with a rapid communication document was passed and signed into law two years ago. The current measure is designed to correct inconsistencies found in the prior legislation and to bring our practice into compliance with the standard approved by the National POLST Workgroup. .

While an advance directive can be a useful tool to summarize a person's values, beliefs and preferences for possible changes in future health, a POLST document provides real-time instructions for first-responders, emergency room personnel and other health care providers. Unlike a living will these instructions are clear and actionable not requiring an evaluation of whether certain terms have been met. From daily experience, I can assure you that interpreting a living will is not always a straight-forward affair, often requiring the interpretation of an Ethics Committee. First line responders require absolute clarity so that they can immediately act to resuscitate or initiate comfort measures. National data show that POLST documents provide this kind of clarity.

Another major advantage of POLST over the current bracelet system is that the latter only allows for a binary decision: resuscitate or don't resuscitate. POLST documents allow for finer shades of gray. Patients can designate comfort measures only, full aggressive measures, or choose which interventions they would accept and which they would refuse. POLST documents even allow patients to request a trial of certain treatments, such as tube feedings, to see if meaningful improvements in health might occur and instructions to stop these treatments if and when these improvements do not occur. I assure you that these choices are very clinically meaningful and clarifying these choices respects the patient's autonomy to a much greater extent than current

practice permits.

I urge the committee to pass HB 1379. The current bracelet system has been proven to be ineffective in honoring people's wishes, and it needs to be replaced. A uniform document written as physician's orders will clearly articulate a person's choices and allow healthcare providers across the medical spectrum—from EMS to ERs to ICUs to nursing homes—to quickly and unambiguously honor these choices and improve the delivery of healthcare in Hawai'i.

Thank you for this opportunity to testify and for your serious and thoughtful consideration of this bill and submitted testimony. Please do not hesitate to contact me for additional information or questions.

Sincerely,

Daniel Fischberg, MD, PhD

March 20, 2009

To: Senator David Ige, Chair
Senator Josh Green, MD, Vice Chair
And Members
Senate Committee on Health

From: Kenneth Zeri, RN, MS
President Kokua Mau
President, Hospice Hawaii

**Testimony in support of HB1379 HD2 relating to
Physicians Orders for Life Sustaining Treatment**

Please accept my testimony in support of HB1379 HD2 related to Physicians Orders for Life Sustaining Treatments (POLST), with proposed technical amendments.

This is the companion bill to SB516, which was passed out of this committee. However, at that hearing, several key stakeholders had testified in support of the intent but in opposition to the mandates imposed upon hospitals to accept the mandates. The interested stakeholders, (the Department of Health, The Healthcare Association, City and County EMS, and local physicians) have worked with Kokua Mau to develop a consensus proposal. We have consulted further with the National POLST Work Group and determined that mandated acceptance of the POLST form by hospitals has not been required in order to achieve the desired outcome. Dr. Woody Moss, from West Virginia reports that without mandates, 85% of facilities honor the POLST. Other communities report acknowledgement and use of the form without mandates (Oregon and Wisconsin). Those patients have their wishes honored by the local Emergency Medical Services (EMS) during transport to facilities. In our community, removing the mandate will still allow an emergency room team to review the POLST form with the family and develop a treatment plan reflective and respective of those orders indicated on a POLST. Therefore, the proposal to remove the mandates from HB 1379 was approved.

We respectfully propose that HD2 be amended with the following technical amendments:

1. Page 4, line 4: insert (1) The Patient's Physician; and"
2. Renumber (1) and (2) appropriately.

Rationale: The intent is that the document is executed by the patient's physician and either the patient or their surrogate. The definition on page 3, line 13 requires the physician's signature, and section 2 of the bill should also reflect that intent.

3. Remove references to a "treating physician" found on page 4 line 18, and page 5, lines 3 and 11.

Rationale: There is no definition to what a treating physician is. Further the difference is between the "Patient's Physician" and treating physician can become confusing when this bill is implemented. The intent is to describe how a surrogate decision maker would proceed to request a modification to the treatment orders. Keeping the process consistent is the most practical means. Section 2C of this draft provides that a physician shall not be required to comply if the orders on the form request medically ineffective healthcare or care that is contrary to generally accepted standards.

4. Page 7, Line 7: to correct the faulted date, making this bill effective when signed.

Thank you for the opportunity to testify in support of HB1379, HD2. I may be reached at 924-9255 for further questions.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2009 2:13 PM
To: HTHTestimony
Cc: Tlenzer@hawaii.rr.com
Subject: Testimony for HB1379 on 3/20/2009 3:00:00 PM

Categories: Green Category, Blue Category

Testimony for HTH 3/20/2009 3:00:00 PM HB1379

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: Anthony Lenzer
Organization: Legislative Committee, Policy Advisory Board for Elder Affairs
Address:
Phone:
E-mail: Tlenzer@hawaii.rr.com
Submitted on: 3/18/2009

Comments:

My name is Anthony Lenzer. I am a professor emeritus of public health and former director of the Center on Aging at the University of Hawaii. I am testifying on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed board tasked with advising the executive office on aging (EOA). My testimony does not represent the views of the EOA but of the Board.

PABEA strongly supports House Bill 1379. Along with many other organizations, PABEA recognizes that advance directives and other measures adopted by the Legislature in prior years do not guarantee that the patient's wishes for end-of-life treatment will always be observed. We believe that physicians orders of the type described by this bill will go a long way toward meeting that need.

I do wish to express personal concern about two provisions of the current version (HD 2) of the bill. First, the provision that "compliance shall not be required if the orders on the form request medically ineffective healthcare or healthcare that is contrary to generally accepted healthcare standards." Unfortunately, the bill does not define these terms and they may therefore be open to some interpretation. Second, the provision that "the director of health may adopt rules in accordance with chapter 91 to carry out this chapter." My question is whether the wording should read that the director of health shall adopt, rather than may adopt, such rules.

Thank you for the opportunity to testify.