
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 legislature finds that it is important for
2 people to make their preferences known regarding end-of-life
3 treatment. Health care planning is a process, rather than a
4 single decision, that helps individuals think about the kind of
5 care they would want if they become seriously ill or
6 incapacitated, and encourages them to talk with their loved ones
7 and physicians. Advance health care directives allow
8 individuals to put their health care wishes in writing and to
9 identify the person to represent them should they become unable
10 to speak for themselves.

11 The legislature finds that a physician orders for life
12 sustaining treatment program complements an advance health care
13 directive by taking the individual's wishes regarding life-
14 sustaining treatment, such as those set forth in the advance
15 health care directive, and converting those wishes into a
16 medical order. The hallmarks of a physician orders for life
17 sustaining treatment form are that:

1 § -1 **Definitions.** As used in this chapter:

2 "Department" means the department of health.

3 "Physician orders for life sustaining treatment form" or
4 "form" means a form designed by the department and signed by a
5 patient, or if incapacitated, by the patient's surrogate as
6 defined in section 327E-1, and the patient's physician, that
7 records the patient's wishes and that directs a health care
8 provider regarding the provision of resuscitative and life
9 sustaining measures. A physician orders for life sustaining
10 treatment form is not an advance health care directive.

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

14 (1) A patient; and

15 (2) A patient's surrogate as defined in section 327E-1,
16 but only if the patient:

17 (A) Lacks capacity; or

18 (B) Has designated that the patient's surrogate is
19 authorized to execute the form.

20 The patient's physician may medically evaluate the patient and,
21 based upon the evaluation, may recommend new orders consistent
22 with the most current information available about the

1 individual's health status and goals of care. The physician
2 shall consult with the patient or the patient's surrogate before
3 issuing any new orders on a form. The patient or the patient's
4 surrogate may choose to execute or not execute any new form. If
5 a patient is incapacitated, the patient's surrogate shall
6 consult with the patient's physician and the patient's treating
7 physician, if not the same, before requesting the physician to
8 modify treatment orders on the form. To be valid, a form shall
9 be signed by the patient's physician and the patient or the
10 patient's surrogate. At any time, a patient, or if
11 incapacitated, the surrogate, may request alternative treatment
12 that differs from the treatment indicated on the form.

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

21 (c) Any health care provider, including the patient's
22 physician and treating physician, if not the same, shall comply

1 with a properly executed and signed form and treat the patient
2 according to the orders on the form; provided that compliance
3 shall not be required if the orders on the form request
4 medically ineffective health care or health care that is
5 contrary to generally accepted health care standards.

6 (d) A patient having capacity 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 operators, 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 pursuant to this chapter a
18 decision regarding treatment orders, including
19 cardiopulmonary resuscitation by or on behalf of a
20 patient or for those actions taken in compliance with
21 the standards and procedures set forth in this
22 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 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 shall adopt rules in
15 accordance with chapter 91 to carry out this chapter."

16 SECTION 3. Chapter 321, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§321- Physician orders for life sustaining treatment;
20 design of form; rules. (a) The department shall require all
21 private health care facilities and hospitals in the State to
22 adopt the use of a standardized physician orders for life

1 sustaining treatment form pursuant to chapter . The
2 department shall design a standardized form to be used
3 statewide.

4 (b) The director of health shall adopt rules in accordance
5 with chapter 91 to carry out this section."

6 SECTION 4. Chapter 323F, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 **"§323F- Physician orders for life sustaining treatment**

10 **form; rules.** (a) Pursuant to chapter , the corporation
11 shall require all health care facilities and community hospitals
12 within the Hawaii health systems corporation to adopt the use of
13 a standardized physician orders for life sustaining treatment
14 form designed by the department of health.

15 (b) The corporation shall adopt rules in accordance with
16 chapter 91 to carry out this section."

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2050.

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 treatment form. Requires department of health to design the form. Requires department of health and Hawaii health systems corporation to require adoption of the form in their respective health facilities. (SD1)