

SB 516



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

In reply, please refer to:
File:

SENATE COMMITTEE ON HEALTH

SB0516, RELATING TO PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT

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

**February 11, 2009
3:00 p.m.**

- 1 **Department's Position:** The department appreciates the intent of this bill, but must respectfully oppose
2 it as currently drafted.
- 3 **Fiscal Implications:** The department's RN nurse surveyor teams would be required to verify
4 compliance with this additional requirement, which will add time to each survey at each facility. The
5 costs to the state DOH cannot be quantified.
- 6 **Purpose and Justification:** The bill seeks to use a standardized form to transform a person's advance
7 directive into a medical order that would be accepted among all health care settings. However, hospitals
8 and other health care facilities recognize physician orders only from physicians that have privileges at
9 their facility. Therefore, a standardized form signed by a physician would not necessarily be honored
10 from one facility to the next and could not be enforced. Moreover, state statute and administrative rules
11 are already in place to address end-of-life needs. Hospitals are required to have a written policy
12 concerning the rights and responsibilities of patients. These include a patient's right to refuse treatment
13 after being informed of the medical consequences of that refusal, for the patient to be treated with
14 consideration, respect, full recognition of dignity and individuality, and to require only the provision of

1 comfort care by emergency medical services personnel, first responders or any other health care
2 provider. The Joint Commission also requires hospitals to address the wishes of the patient relating to
3 end-of-life decisions.

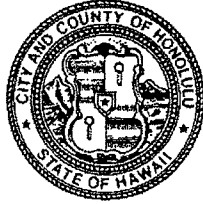
4 In summary, this bill appears to duplicate current requirements and would add costs for the
5 department. A new program and costs cannot be added at the same time that established programs are
6 being cut and other funding cuts may be required.

7 Thank you for the opportunity to testify.

HONOLULU EMERGENCY SERVICES DEPARTMENT
CITY AND COUNTY OF HONOLULU

3375 KOAPAKA STREET, SUITE H-450 • HONOLULU, HAWAII 96819-1869
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MUFI HANNEMANN
MAYOR



ELIZABETH A. CHAR, M.D.
DIRECTOR

February 10, 2009

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

Re: SB 516, Relating to Physician Orders for Life Sustaining Treatment

Dear Chair Ige, Vice Chair Green and Committee Members

SB 516 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

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

From: **Jeannette Kojane, MPH, Executive Director, Kokua Mau**

Date & Time of Hearing: **3pm, Wednesday, February 11, 2009**

Subject: **Support of SB 516, Relating to Physicians Orders for Life Sustaining Treatments**

My name is Jeannette Kojane, and I am the Executive Director of Kokua Mau, Hawaii's Hospice and Palliative Care Organization. I have worked in end-of-life and palliative care for over 20 years, including the last 9 in Hawaii. I am testifying in strong support of **SB 516, Relating to Physicians Orders for Life Sustaining Treatments (POLST)**, 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.

This bill will properly implement a POLST system which was passed by this legislature 2 years ago but because of some technical difficulties could not be implemented. This improved wording should take care of those problems and bring Hawaii a comprehensive way of improving care that people get at the end of life.

The POLST will allow healthcare professionals to put into a working document people's wishes for end of life care. POLST will take the wishes of the Advance Directive, which records people's wishes for end-of-life care, into a document that can be used by health professionals. The document will follow then follow the person if they are transferred from one institution to another or if they would need emergency medical care. The experts on our coalition are united in believing that this is good policy, state of the art practice, and that Hawaii should join other

states in implementing this document.

I urge the committee to pass SB 516. The current 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,

Jeannette Koiijane

Executive Director
Kokua Mau
PO Box 62155
Honolulu, HI 96839

Tel: 988-9941

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

From: Daniel Fischberg, MD, PhD

Date & Time of Hearing: 3pm, Wednesday, February 11, 2009

Subject: Support of SB 516, 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 **SB 516, 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 SB 516. 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
Medical Director, Pain & Palliative Care
The Queen's Medical Center

From: Bill Musick [BMusick@Tower-Hill.com]
Sent: Monday, February 09, 2009 4:14 PM
To: HTHTestimony
Cc: 'Jeannette Kojjane'
Subject: HTH Testimony - SB 516 Hearing: 3pm, Wednesday, February 11, 2009
Attachments: image001.png

Categories: Blue Category

**To: Representative Dennis A. Arakaki, Chair
Representative Josh Green, MD, Vice-Chair
House Committee on Health**

From: Bill Musick

Date & Time of Hearing: 3pm, Wednesday, February 11, 2009

Subject: Support of SB 516, Relating to Physicians Orders for Life Sustaining Treatments

My name is Bill Musick. I am a resident of Honolulu and a consultant who works with hospice and other end of life care providers across the United States. I would like to register my strong support for SB 516, **Relating to Physicians Orders for Life Sustaining Treatments (POLST)**, which would more effectively address the wishes of a person cared for by emergency medical personnel, first responders and health care providers throughout the state by filling the pukas in the current system of "comfort care" bracelets.

POLST documents are a recognized best practice for adequately addressing the wishes of people living with life-threatening illness. It serves several laudatory purposes. Among the most important are that it allows the patient to specify particular interventions that they do or not want, and that it is in a form readily accepted and used by the entire health care system.

The whole point of any advanced directive is to ensure that the wishes of the patient are followed. This bill helps ensure that this is the case, and helps ensure that no family experiences a situation in which those wishes are violated - intentionally or unintentionally.

I urge the committee to pass SB 516. 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.

I want to thank you for the opportunity to present my own testimony and for your consideration of this bill and the testimony of others. Please do not hesitate to contact me for additional information or questions.

Sincerely,

Bill Musick

Bill Musick
Principal



TOWER HILL
RESOURCES

1050 Bishop St #542
Honolulu, HI 96813

February 10, 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 SB 516 relating to
Physicians Orders for Life Sustaining Treatment**

Please accept my testimony in support of SB 516 related to Physicians Orders for Life Sustaining Treatments (POLST), with proposed technical amendments.

In 2006, the legislature signed into law the act authorizing the creation of a rapid identification document, replacing the comfort care only – do not resuscitate bracelet system. However, the implementation of the document system was “hung up” because a lack of the physician’s signature. Further, while the intent was to allow the DOH to establish a POLST document, the interpretation was that it could only be a CCO-DNR document, thus eliminating the applicability of the other critical components of a POLST Document.

After consultation with the National POLST Workgroup, and representatives of the DOH, we seek to correct the problems with a revision to the statutes. We have worked with Senator Baker’s and Representative Lee’s office to propose this legislation, based upon the California POLST laws.

We would like to ask the committee to consider the following technical changes:

Page 3: Definitions: After “Form” add in the definition for:

“Health-care Provider” means an individual licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession.

(This was taken from HRS 327E, the Uniform Health Care Decisions, Modified, bill)

Page 3: Definitions: After “Physician orders for life sustaining treatment form”:

“Patient’s Physician” means a physician licensed in the state of Hawaii who has examined the patient.

Page 4: Line 9: Strike “and the patient’s treating physician,”

Page 4, Line 16: Strike “treating physician,”

Page 4, Line 21: Strike “treating physician,”

Page 5, Line 4: Strike “and treating physician, if not the same,”

Page 5, Line 12: consider replacing “physician, health care professional, nurses aide” with “Health-care Provider” as defined above

Page 5, Line 13: is it appropriate to replace this long list of facilities, etc, with the simple definition of a healthcare facility as defined in 323D-2?

Likewise, Page 7, line 3 & 4 only list healthcare facilities and hospitals. Is it appropriate to address this from the definition of 323D-2?

The intent is that the patient be able to have their own POLST orders carried out in any facility in Hawaii in which they receive care.

Differentiation between CCO-DNR Bracelet/ Document, Advance Directives and POLST

For the lay person who is not engaged in hospice or palliative care on a daily basis, nor is an attorney specializing in estate planning, the three terms can seem blurred.

- CCO-DNR Bracelet/ Document. This is simply a “yes or no” answer to the question: If this person is found to be without a pulse or breathing, should CPR (resuscitation) be initiated? The document or bracelet offers no areas of grey, nor does it guide the Emergency Medical System, Emergency Room staff or Hospital ICU physicians in the critical areas of the care before the heart stops.
- Advance Directives: This document can represent the in-depth discussion of how an individual wishes to be treated in the face of chronic or life threatening diseases. It addresses a wide range of topics, from resuscitation to artificial feeding and hydration. From how the person wants their pain to be treated, to the use of hospice or the support of clergy. It is a guideline designed to assist families and healthcare providers in making decisions. However, it has no force of a physician’s orders and cannot be used by EMS to make interpretive decisions during an emergency call. Further, each institution still needs to develop a set of internal orders, and those orders for care stop once the patient leaves the facility or is transferred to another.
- POLST: These orders for care are a distillation of the Advance Directives and represent a discussion with the patient or their surrogate decision maker and the physician. The physician, based upon advance directives, completes this standardized form, addressing the issues such as
 - Attempting resuscitation if no pulse or breath
 - Medical interventions if there is a pulse and breathing
 - The use of antibiotics
 - Artificially administered nutrition

The POLST form can be rapidly scanned by EMS personnel as they arrive on scene and communicated to the receiving Emergency Room. Further, they provide a solid starting point for the Emergency Room Physician to initiate the discussion with the family to set the immediate treatment plan.

Thank you for the opportunity to testify and I may be reached at Hospice Hawai'i 924-9255 for further questions.

FAXED to House Sergeant-at-Arms: 586-6501

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

From:

Date & Time of Hearing: 3pm, Wednesday, February 11, 2009

Subject: Support of SB 516, Relating to Physicians Orders for Life Sustaining Treatments

My name is Dr. Wen-yu Lee, and I am a Palliative Care and Hospice physician providing care for patients with limited life expectancy and I am testifying in strong support of **SB 516, 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.

Please give some background about why a standardized document will improve upon the current system. If you have examples from your work or personal experience, use it as background. Some other talking points:

- *It takes too long to get a Comfort Care Only/Do Not Resuscitate bracelet: it has to be ordered from the mainland and only one pharmacy on the island orders it. People can die waiting for the bracelet to arrive. A physician's orders document can be completed and filed quickly and efficiently.*
- *A standardized document can more clearly spell out the person's wishes for treatment as related to resuscitation, artificial nutrition & hydration, and other interventions.*
- *A uniform document can be written as physician's orders, which will eliminate the current confusion over and time spent translating other forms into medical orders.*

FAXED to House Sergeant-at-Arms: 586-6501

- *A certified form would clearly express a person's wishes to health care providers, emergency medical personnel and first responders and allow these providers to honor the person's wishes without confusion or ambiguity.*
- *The replacement of the ineffective bracelet program would provide for a new system that improves delivery of care and brings together providers from across the health care system to honor the wishes of their patients.*
- *The use of a document written as physician's orders will prevent other<if you gave an example> tragic and prolonged cases where patients end up in the ICU unconscious and on a ventilator after the CCO-DNR bracelet system did not work.*

I urge the committee to pass SB 516. 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. 225-8802

Sincerely,

Wen-yu Lee