
A BILL FOR AN ACT

RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT.

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

1 SECTION 1. The legislature finds that Act 186, Session
2 Laws of Hawaii 2009, established the Hawaii physician orders for
3 life-sustaining treatment (POLST) law. Act 186, codified as
4 chapter 327K, Hawaii Revised Statutes, enables patients or their
5 surrogates to create a POLST. POLST is a holistic method of
6 planning for end-of-life care and a specific set of medical
7 orders that ensure patients' wishes are honored.

8 The legislature further finds that completing a POLST form
9 encourages communication and conversations between patients and
10 health care providers. Patients may elect to create a POLST
11 based on conversations with their health care providers,
12 enabling patients to make informed decisions and translating
13 patients' wishes into actionable medical orders. POLST is
14 beneficial to people with serious illnesses, including dementia,
15 as it specifies the types of treatment that a patient wishes to
16 receive toward the end of life. A POLST form documents
17 patients' wishes in a clear manner and can be quickly understood
18 by all health care providers, including first responders and



1 emergency medical services personnel. A POLST form, which is
2 portable and recognized statewide, also ensures that a patient's
3 wishes can be honored across all settings of care. If a patient
4 no longer has the capacity to make decisions, the patient's
5 legally authorized representative may complete a POLST form on
6 the patient's behalf.

7 The legislature additionally finds that the national
8 standard for authorized health care provider signatories
9 includes licensed physicians and advanced practice registered
10 nurses, both of whom are recognized in Hawaii as primary care
11 providers. However, chapter 327K, Hawaii Revised Statutes,
12 limits signatory authority for POLST to licensed physicians.
13 This creates a barrier to timely completion of POLST, especially
14 in rural areas or on the neighbor islands, where an advanced
15 practice registered nurse may be the only primary care provider
16 a patient sees. Limiting signatory authority for POLST to
17 licensed physicians also affects long-term care settings where
18 an advanced practice registered nurse is the primary care
19 provider and visits from a licensed physician may be several
20 weeks apart. Although advanced practice registered nurses are
21 able to practice independently in Hawaii, bottlenecks occur in
22 certain health care settings, as advanced practice registered



1 nurses are currently unable to complete a POLST directly with
2 patients and families.

3 The legislature also finds that references within chapter
4 327K, Hawaii Revised Statutes, need to be amended from
5 "physician orders for life-sustaining treatment" to "provider
6 orders for life-sustaining treatment", to accurately reflect
7 that physicians are not the only primary care providers who may
8 sign a POLST form on behalf of a patient.

9 The legislature further finds that chapter 327K, Hawaii
10 Revised Statutes, uses the term "surrogate" to describe a
11 legally authorized health care decision maker, which is
12 inconsistent with terminology in chapter 327E, Hawaii Revised
13 Statutes, the Uniform Health-Care Decisions Act. Amendments are
14 therefore necessary to correct these inconsistencies.

15 Accordingly, the purpose of this Act is to increase access
16 to POLST by:

17 (1) Updating references from "physician orders for life-
18 sustaining treatment" to "provider orders for life-
19 sustaining treatment" throughout chapter 327K, Hawaii
20 Revised Statutes;

21 (2) Expanding health care provider signatory authority to
22 include advanced practice registered nurses; and



1 (3) Correcting inconsistencies in terms used to describe
2 who may sign a POLST form on behalf of a patient.

3 SECTION 2. Chapter 327K, Hawaii Revised Statutes, is
4 amended by amending its title to read as follows:

5 "~~PHYSICIAN~~ PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT"

6 SECTION 3. Section 327K-1, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted
9 and to read:

10 "Legally authorized representative" means an agent,
11 guardian, or surrogate, as those terms are defined in section
12 327E-2."

13 2. By amending the definitions of "patient's physician"
14 and "physician orders for life-sustaining treatment form" to
15 read:

16 "'Patient's [~~physician~~] provider" means a physician
17 licensed pursuant to chapter 453 or an advanced practice
18 registered nurse recognized pursuant to chapter 457 who has
19 examined the patient.

20 "[~~Physician~~] Provider orders for life-sustaining treatment
21 form" means a form signed by a patient, or if incapacitated, by
22 the patient's [~~surrogate~~] legally authorized representative and



1 the patient's [~~physician,~~] provider, that records the patient's
 2 wishes and that directs a health care provider regarding the
 3 provision of resuscitative and life-sustaining measures. A
 4 [~~physician~~] provider orders for life-sustaining treatment form
 5 is not an advance health-care directive."

6 3. By deleting the definition of "surrogate".
 7 [~~"Surrogate" shall have the same meaning as in section~~
 8 ~~327E-2."~~]

9 SECTION 4. Section 327K-2, Hawaii Revised Statutes, is
 10 amended as follows:

- 11 1. By amending subsection (a) to read:
 12 "(a) The following may execute a form:
 13 (1) The patient;
 14 (2) The patient's [~~physician,~~] provider; and
 15 (3) The [~~surrogate,~~] legally authorized representative,
 16 but only if the patient:
 17 (A) Lacks capacity; or
 18 (B) Has designated that the [~~surrogate~~] legally
 19 authorized representative is authorized to
 20 execute the form.

21 The patient's [~~physician~~] provider may medically evaluate the
 22 patient and, based upon the evaluation, may recommend new orders



1 consistent with the most current information available about the
2 individual's health status and goals of care. The patient's
3 ~~[physician]~~ provider shall consult with the patient or the
4 patient's ~~[surrogate]~~ legally authorized representative before
5 issuing any new orders on a form. The patient or the patient's
6 ~~[surrogate]~~ legally authorized representative may choose to
7 execute or not execute any new form. If a patient is
8 incapacitated, the patient's ~~[surrogate]~~ legally authorized
9 representative shall consult with the patient's ~~[physician]~~
10 provider before requesting the patient's ~~[physician]~~ provider to
11 modify treatment orders on the form. To be valid, a form shall
12 be signed by the patient's ~~[physician]~~ provider and the patient,
13 or the patient's ~~[physician]~~ provider and the patient's
14 ~~[surrogate]~~ legally authorized representative. At any time, a
15 patient, or, if incapacitated, the patient's ~~[surrogate]~~
16 legally authorized representative, may request alternative
17 treatment that differs from the treatment indicated on the
18 form."

19 2. By amending subsection (d) to read:

20 "(d) A patient having capacity, or, if the patient is
21 incapacitated, the patient's ~~[surrogate]~~ legally authorized



1 representative, may revoke a form at any time and in any manner
2 that communicates intent to revoke."

3 SECTION 5. Section 327K-3, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) No physician, advanced practice registered nurse,
6 health care professional, nurse's aide, hospice provider, home
7 care provider, including private duty and medicare home health
8 providers, emergency medical services provider, adult
9 residential care home operator, skilled nursing facility
10 operator, hospital, or person employed by or under contract with
11 a hospital shall be subject to criminal prosecution, civil
12 liability, or be deemed to have engaged in unprofessional
13 conduct for:

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

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



1 (A) Was unaware of the issuance of an order not to
2 resuscitate; or

3 (B) Believed that any consent to treatment orders,
4 including the order not to resuscitate, had been
5 revoked or canceled."

6 SECTION 6. The department of health shall develop and
7 adopt a sample provider orders for life-sustaining treatment
8 form pursuant to chapter 91, Hawaii Revised Statutes.

9 SECTION 7. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored

11 SECTION 8. This Act shall take effect on July 1, 2112.



Report Title:

Provider Orders for Life-Sustaining Treatment; Advanced Practice Registered Nurses; Legal Representatives

Description:

Increases access to Provider Orders for Life-Sustaining Treatment (POLST) by updating references from "physician orders for life-sustaining treatment" to "provider orders for life-sustaining treatment" throughout chapter 327K, HRS; expanding health care provider signatory authority to include advanced practice registered nurses; and correcting inconsistencies over terms used to describe who may sign a POLST form on behalf of a patient. Requires the Department of Health to develop and adopt a sample POLST form. Effective July 1, 2112. (HB2052 HD1)

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