

H.B. NO. 2317

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 Physician Orders for Life-sustaining
2 Treatment law, chapter 327K, Hawaii Revised Statutes, enables
3 individuals or their legal representatives to complete a
4 physician orders for life-sustaining treatment form. These
5 orders are portable and recognized statewide. The national
6 standard for authorized healthcare provider signatories include
7 licensed physicians and advanced practice registered nurses.

8 The legislature finds that Hawaii's law is limited to only
9 licensed physicians, creating a barrier to timely completion of
10 a physician orders for life-sustaining treatment form. This
11 occurs in rural areas where an advanced practice registered
12 nurse is the only prescribing provider an individual may see.
13 It also occurs in long-term care settings where the advanced
14 practice registered nurse is the primary provider and
15 physician's visits are several weeks apart. Additionally, given
16 the ability of advanced practice registered nurses in Hawaii to
17 practice independently, bottlenecks occur in a variety of other
18 settings as they are unable to complete a physician orders for

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1 life-sustaining treatment form directly with patients and
2 families.

3 Physician Orders for Life-sustaining Treatment is
4 beneficial to people with serious illness, including people with
5 dementia, and their decision makers as it specifies the types of
6 treatments that a patient wishes to receive towards the end of
7 life. Completing a physician orders for life-sustaining
8 treatment form encourages communication between healthcare
9 providers and patients, enabling patients to make more informed
10 decisions. The physician orders for life-sustaining treatment
11 form documents those decisions in a clear manner and can be
12 quickly understood by all providers, including first responders
13 and emergency medical services personnel. As a result, the
14 patient's wishes can be honored across all settings of care. If
15 the patient no longer has the capacity to make decisions for the
16 patient's self, the patient's legally recognized representatives
17 can complete physician orders for life-sustaining treatment on
18 the patient's behalf.

19 Additionally, the current law uses wording to describe a
20 legally authorized healthcare decision maker that is
21 inconsistent with chapter 327E, Hawaii Revised Statutes, the
22 Uniform Health Care Decisions Act. This Act will correct those
23 inconsistencies.

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1 The purpose of this Act is to expand signature
2 authorization to include advanced practice registered nurses and
3 make technical corrections to the Hawaii Physician Orders for
4 Life-sustaining Treatment law.

5 SECTION 2. Section 327K-1, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~§~~**327K-1**~~]~~ **Definitions.** As used in this chapter,
8 unless the context otherwise requires:

9 "Advanced practice registered nurse" means a registered
10 nurse who has met the qualifications for advanced practice
11 registered nurse set forth in chapter 457 and through rules of
12 the board, which shall include educational requirements as
13 defined in section 457-2.

14 "Department" means the department of health.

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

17 "Health care provider" means an individual licensed,
18 certified, or otherwise authorized or permitted by law to
19 provide health care in the ordinary course of the individual's
20 business or profession.

21 "Legal representative" shall have the same meaning as a
22 person who is empowered to make decisions on behalf of another
23 person as allowed for in chapter 327E.

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

3 "Physician orders for life-sustaining treatment form" means
4 a form signed by a patient, or if incapacitated, by the
5 patient's [~~surrogate~~] legal representative and the patient's
6 physician[+] or advanced practice registered nurse that records
7 the patient's wishes and that directs a health care provider
8 regarding the provision of resuscitative and life-sustaining
9 measures. A physician orders for life-sustaining treatment form
10 is not an advance health-care directive.

11 [~~"Surrogate" shall have the same meaning as in section~~
12 ~~327E-2.~~]"

13 SECTION 3. Section 327K-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§327K-2[+] **Physician orders for life-sustaining**
16 **treatment form; execution; explanation; compliance; revocation.**

17 (a) The following may execute a form:

18 (1) The patient;

19 (2) The patient's physician[+] or advanced practice
20 registered nurse; and

21 (3) The [~~surrogate,~~] legal representative, but only if the
22 patient:

23 (A) Lacks capacity; or

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1 B) Has designated that the [~~surrogate~~] legal
2 representative is authorized to execute the form.
3 The patient's physician or advanced practice registered nurse
4 may medically evaluate the patient and, based upon the
5 evaluation, may recommend new orders consistent with the most
6 current information available about the individual's health
7 status and goals of care. The patient's physician or advanced
8 practice registered nurse shall consult with the patient or the
9 patient's [~~surrogate~~] legal representative before issuing any
10 new orders on a form. The patient or the patient's [~~surrogate~~]
11 legal representative may choose to execute or not execute any
12 new form. If a patient is incapacitated, the patient's
13 [~~surrogate~~] legal representative shall consult with the
14 patient's physician or advanced practice registered nurse before
15 requesting the patient's physician or advanced practice
16 registered nurse to modify treatment orders on the form. To be
17 valid, a form shall be signed by the patient's physician or
18 advanced practice registered nurse and the patient, or the
19 patient's physician or advanced practice registered nurse and
20 the patient's [~~surrogate~~] legal representative. At any time, a
21 patient, or, if incapacitated, the patient's [~~surrogate~~] legal
22 representative, may request alternative treatment that differs
23 from the treatment indicated on the form.

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1 (b) The patient's physician or advanced practice
2 registered nurse or a health care provider shall explain to the
3 patient the nature and content of the form, including any
4 medical intervention or procedures, and shall also explain the
5 difference between an advance health-care directive and the
6 form. The form shall be prepared by the patient's physician or
7 advanced practice registered nurse or a health care provider
8 based on the patient's preferences and medical indications.

9 (c) Any health care provider, including the patient's
10 physician~~[7]~~ or advanced practice registered nurse, emergency
11 medical services personnel, and emergency physicians shall
12 comply with a properly executed and signed form and treat the
13 patient according to the orders on the form; provided that
14 compliance shall not be required if the orders on the form
15 request medically ineffective health care or health care that is
16 contrary to generally accepted health care standards.

17 (d) A patient having capacity, or, if the patient is
18 incapacitated, the patient's ~~[surrogate7]~~ legal representative,
19 may revoke a form at any time and in any manner that
20 communicates intent to revoke."

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

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1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "J. B. ...", is written over a horizontal line.

BY REQUEST

JAN 21 2014

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Report Title:

Physician Orders for Life-Sustaining Treatment

Description:

Expands signature authorization to include advanced practice registered nurses. Makes technical corrections to the Hawaii physician orders for life-sustaining treatments law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT.

PURPOSE: To expand signature authorization to include Advanced Practice Registered Nurses (APRN) and make technical corrections to the Hawaii Physician Orders for Life-sustaining Treatments (POLST) law, chapter 327K, Hawaii Revised Statutes.

MEANS: Amend sections 327K-1 and 327K-2, Hawaii Revised Statutes

JUSTIFICATION: The Hawaii POLST law, passed in 2009, enables individuals or their legal representatives to create a POLST. These orders are portable and recognized statewide. The national standard for authorized healthcare provider signatories includes licensed physicians and advanced practice registered nurses.

The Hawaii law is limited to only licensed physicians, creating a barrier to timely completion of a POLST. This occurs in rural areas where an APRN is the only prescribing provider an individual may see. It also occurs in long-term care settings where the APRN is the primary provider and physicians' visits are several weeks apart. Additionally, given the ability of APRNs in Hawaii to practice independently, bottlenecks occur in a variety of other settings as they are unable to complete a POLST directly with patients and families.

A POLST is beneficial to people with serious illness, including dementia, and their decision makers as it specifies the types of treatments that a patient wishes to receive

towards the end of life. Completing a POLST form encourages communication between healthcare providers and patients, enabling patients to make more informed decisions. The POLST form documents those decisions in a clear manner and can be quickly understood by all providers, including first responders and emergency medical services (EMS) personnel. As a result, the patient's wishes can be honored across all settings of care. If patients no longer have the capacity to make decisions for themselves, their legally recognized representatives can complete POLSTs on their behalf.

Additionally, the current law uses wording to describe a legally authorized healthcare decision maker which is inconsistent with section 327E-5, the Uniform Health Care Decisions Act. This bill will correct those inconsistencies.

Impact on the public: This bill will increase access to POLSTs by expanding healthcare provider signing authority to include APRNs and will also clear up confusion over titles used to describe who may sign a POLST form on behalf of the patient.

Impact on the department and other agencies: The Department of Health may voluntarily adopt a revised form that would include APRNs signing authority and revised wording for legally authorized representative who may sign the document on behalf of the patient.

Implementation and education about POLST will require continued collaboration with the Executive Office on Aging, Department of Health, Department of Human Services, as well as community partner such as Kokua Mau, Hawaii Hospice and Palliative Care organization, health providers, and the aging network to reach health providers and the public.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HTH 904 AJ

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.