

SB2227

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

DIRECTOR OF HEALTH



WESLEY LUM, PH.D., MPH
DIRECTOR

Telephone
(808) 586-0100

Fax
(808) 586-0185

STATE OF HAWAII
EXECUTIVE OFFICE ON AGING
NO. 1 CAPITOL DISTRICT
250 SOUTH HOTEL STREET, SUITE 406
HONOLULU, HAWAII 96813-2831

Committee on Judiciary and Labor

SB2227, RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT

Testimony of Wes Lum
Director, Executive Office on Aging
Attached Agency to the Department of Health

Tuesday, February 25, 2014; Conference Room 016

10:30 a.m.

EOA's Position: The Executive Office on Aging (EOA) supports this measure.

Purpose and Justification: This bill is similar to SB2867, which is part of the Governor's package, that expands healthcare provider signatory authority to include advanced practice registered nurses (APRN) and corrects inconsistencies over terms used to describe who may sign for a Physician Orders for Life-Sustaining Treatment (POLST) form on behalf of a patient.

This measure also reflects the recommendation of the State Plan on Alzheimer's Disease and Related Dementias (ADRD) to realize the goal of enhancing care quality and efficiency. We believe that in order for Hawaii to achieve the vision of the best quality of life for those touched by dementia, it is imperative to achieve the highest quality of culturally competent care possible and a state infrastructure sensitive to the needs of people with ADRD and their care partners. Consumers and their families need to have all appropriate services and care to maximize quality of life, delivered in a coordinated way from early and accurate diagnosis to the end of life. POSLT is a

holistic method of planning for end of life care and a specific set of medical orders that ensure that patients' wishes are honored. Therefore, expanding healthcare provider signatory authority to include APRNs will assist with a timely completion of a POLST for persons with dementia. Thank you for the opportunity to testify.



February 25, 2014

The Honorable Clayton Hee, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair

Committee on Judiciary and Labor

Re: SB 2227 – Relating to Physician Orders for Life-Sustaining Treatment

Dear Chair Hee, Vice Chair Shimabukuro, and Members of the Committee:

My name is Rick Jackson and I am Chairperson of the Hawaii Association of Health Plans (“HAHP”) Public Policy Committee. HAHP is a non-profit organization consisting of nine (9) member organizations:

AlohaCare	MDX Hawai‘i
Hawaii Medical Assurance Association	‘Ohana Health Plan
HMSA	University Health Alliance
Hawaii-Western Management Group, Inc.	UnitedHealthcare
Kaiser Permanente	

Our mission is to promote initiatives aimed at improving the overall health of Hawaii. We are also active participants in the legislative process. Before providing any testimony at a Legislative hearing, all HAHP member organizations must be in unanimous agreement of the statement or position.

HAHP appreciates the opportunity to provide testimony in support to SB 2227 which would expand access to physician orders for life-sustaining treatment to advanced practice registered nurses; and correcting inconsistencies over terms used to describe who may sign a POLST form on behalf of a patient. We believe that this type of expansion will be highly beneficial to all the people of Hawai‘i, especially to those living in rural communities. HAHP also believes that this Bill will further encourage communication between healthcare providers and patients to make more informed decisions, which is crucial to positive health outcomes.

Thank you for the opportunity to provide testimony.

Sincerely,

Rick Jackson
Chair, Public Policy Committee

22 February 2014

SB2227 POLST in Hawaii

Strong Support with Amendments

Dear Chair Hee and members of the Judiciary Committee,

Hawaii already has POLST (Physician Orders for Life Sustaining Treatment), which is working well, to allow people to state their wishes for medical care and have them honored, in the event they are incapacitated or unable to speak for themselves. POLST is a distillation of Advanced Directive and is an immediately actionable document, recognized across the state by EMS personnel and first responders, as well as physicians and healthcare professionals.

The house version of this bill (HB 2052 HD1) merely aims to clarify some of the terms use in the current POLST form and importantly allows for advanced practice nurses (APRN's) to sign the form. Currently POLST forms must be signed by a physician, but in many communities, APRN's are the primary caregivers and this will allow more people to specify and have their wishes honored.

The bill should NOT require the department of Health to develop and adopt a sample POLST form. We already have a working POLST form that is patterned after the National POLST forms and modified for use in Hawaii by the POLST consortium of subject matter experts and stakeholders. The form was presented to the DOH for approval many years ago and is currently working well.

We don't need to reinvent the wheel. We have a workable POLST form that is being used today and all we need to do is to clarify some of the language on "legally authorized representatives" and give authority to APRN's to sign the form.

Respectfully,



Elizabeth A Char, MD
EMS and Emergency Physician



KŌKUA MAU
"Continuous Care"

Hawai'i Hospice and Palliative Care Organization
P.O. Box 62155 • Honolulu, HI 96839 • Tel: 808-585-9977 • Fax: 808-988-3877 • www.kokuamau.org

Testimony in Support of SB2227 – RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT (POLST)

This testimony is in support of SB2227, important legislation that will expand access to POLST across the state. Since its implementation in 2009, POLST has been successful in Hawaii. SB2227 will allow APRNs in addition to physicians to sign this important document. This means that more people will be able to have a POLST, if they chose to do so, to document their wishes for care. APRNs play an important role in care in Hawaii, not only in rural areas and long term care settings but also in our major hospitals in the middle of Honolulu. Including these highly trained professionals means that the people of Hawaii facing serious illness as well as their loved ones can better avoid crisis, reduce stress and get the appropriate care they want and need by having a portable providers orders that can be honored by EMS as well as other medical professionals.

In my role as Executive Director of Kokua Mau, Hawaii's Hospice and Palliative Care Organization, I see the importance of POLST. We have spearheaded efforts to educate professionals as well as the general public about POLST and host all POLST materials on our website (www.kokuamau.org). There is a POLST Task Force, staffed by Kokua Mau, which includes local experts who have worked on this legislation as well as providing training and addressing questions which arise from practitioners. The motivation for this legislation arose from that committee who experience first hand the bottlenecks that occur in completing POLST and welcome the addition of APRNs. The Task Force is very willing to work with you if you have any questions on this bill.

I hear stories, from all parts of the state, about how POLST has helped to avert crisis and provide comfort to families who strive to care for their loved ones. POLST is an important part of Advance Care Planning and is making a difference around the state. Nationally, POLST is seen as a best practice and the expansion of signing privileges to include APRNs is in keeping with national recommendations.

I would like to address some amendments proposed by Prof. Jim Pietsch who we consulted with on the creation of the legislation. Prof. Pietsch suggests two amendments that we support:

1. Change Legal Representative to Legally Authorized Representative in keeping with standard legal wording.
2. Omit the wording power of attorney as that is a legal document and not an individual authorized to make healthcare decisions. One suggested wording is an agent designated in a power of attorney for health care.

However, we do not support the creation of a sample form by the Department of Health. For the last four years one voluntary POLST form that is used in the state that was created by the state's experts in collaboration with national standards for POLST type forms. POLST represents a set of provider's orders which, like all other medical



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practice, should not be enacted with legislation, rather allowed to change as best practice changes. At the moment, the voluntary system that we have works well and has participation from DOH, EMS as well as all parts of the health care system including hospitals, long term care, home health and hospice. There is no need to add extra steps to a system that works well nor to give unnecessary and unwanted work to DOH.

There has also been testimony submitted by one person referring to non-designated decision-makers. We believe that that issue is not directly related to POLST but rather deals with Chapter 327. That could be addressed in future years but is a separate issue. POLST follows the stipulations of Chapter 327 so any changes in the future would be reflected in POLST at that time.

We enthusiastically support this POLST legislation. Please contact me if you have any questions.

Thank you for your consideration,

Jeannette Kojane, MPH
Executive Director
Kokua Mau

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: andy.ancheta@amr.net
Subject: *Submitted testimony for SB2227 on Feb 25, 2014 10:30AM*
Date: Monday, February 24, 2014 10:21:57 AM

SB2227

Submitted on: 2/24/2014

Testimony for JDL on Feb 25, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Andy Ancheta	American Medical Response	Support	No

Comments:

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February 22, 2014

Esteemed Committee Members:

I am a state and national leader in hospice and palliative medicine and I am writing in strong support of SB2227.

I serve as Medical Director for the largest hospital-based palliative care program in Hawaii, at The Queen's Medical Center. I serve as Vice-Chair of the Board of *Kokua Mau*, Hawaii's hospice and palliative care organization and Vice-President of Hawaii Physician's for Compassionate Care. I am Chief of the Division of Palliative Medicine and Professor of Geriatric Medicine at the John A. Burns School of Medicine of the University of Hawaii. Nationally, I serve on the Board of Directors and Chair of the Publications Committee for the American Academy of Hospice and Palliative Medicine. I have authored numerous book chapters and peer-reviewed journal articles in the field of palliative medicine. My opinions expressed here are my own.

As an expert in the field of end-of-life care I know that loss of control is one of the greatest fears of those living with advanced illness. Any sense of control can bring immense comfort and peace of mind. When it comes to avoiding unwanted medical treatments at the end of life, Physician Orders for Life Sustaining Treatments (POLST) are unsurpassed. In many studies, POLST have been shown to be nearly 100% effective in preventing unwanted treatments while other directives, such as living wills, have not been shown effective. Furthermore, POLST have never been shown to be a barrier to people receiving the treatments that they do desire. Patients are free to indicate as they wish full life-prolonging measures, comfort measures, or a balanced approach between the two.

Unfortunately, access to care continues to be an issue, particularly for those with advanced illness. Many patients that would wish to complete a POLST to avoid unwanted medical treatment are confined to their beds at home, in a nursing facility, or in hospice. Advanced practice nurses have been critical in providing needed medical care to these patients. On my own team, advanced practice nurses outnumber physicians 5 to 3. Not permitting Advance Practice Nurses to sign POLST forms in Hawaii, as they are empowered in other states, means many citizens of Hawaii in need cannot complete them, leaving them vulnerable to unwanted aggressive treatment, such as electric shocks to the chest or placement on an artificial respirator, at the end of life when most people would prefer a focus on their comfort and dignity.

Please help those of us caring for people with advanced illness. Please pass SB2227.

Thank you for your thoughtful attention to this important matter.

Respectfully,

Daniel Fischberg, MD, PhD, FAAHPM

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: hedgesew@gmail.com
Subject: Submitted testimony for SB2227 on Feb 25, 2014 10:30AM
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SB2227

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Submitted By	Organization	Testifier Position	Present at Hearing
Jerris Hedges	Individual	Support	No

Comments: As a physician who previously practiced in a state with an active POLST program, I am in support of the recommended modified language. Licensed primary care providers whether physicians or other practitioners should be able to work with patients and their loved ones to oversee completion of the POLST form. Mahalo for your support of this bill. Jerris R. Hedges, MD Dean, John A. Burns School of Medicine Emergency Physician

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SB2227

Submitted on: 2/24/2014

Testimony for JDL on Feb 25, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jackie Mishler	Individual	Comments Only	Yes

Comments: Jackie Mishler RN BSN PCCN Post Office Box 892 Kula, Hawaii 96790 561-8673 Honorable Chair Clayton Hee, Vice-Chair Maile Shimabukuro and members of the Judiciary Committee My name is Jackie Mishler. I am a Certified Progressive Care nurse from Maui and have been involved in Advance Directives and POLST since they became part of Hawaii law and practice. I believe there is an underlying problem with this bill, whether the term used is “surrogate” or “legal representative.” The problem is – in actual practice – the lack of standards for someone assuming the role of making medical decisions for the patient. A patient can designate a representative through signature, can choose an agent through an Advance Directive, or can be placed in the care of a guardian through a court procedure. Each of these types of representative is authorized through procedures that are legally defined and are verifiable. And each of these representatives can authorize Do Not Resuscitate and other orders on behalf of the patient. What is currently called a “non-designated surrogate” is someone NOT chosen by the patient. There is neither standard form for this selection nor a state-wide form that documents the reason or authority for the selection. Yet this person too can authorize a Do Not Resuscitate order. This is a significant weakness in our system of patient care. But there is a solution, the wording for which is contained in HSR 327E-7 (i). This reads, “A supervising health care provider shall require a surrogate to provide a written declaration under the penalty of false swearing stating facts and circumstances reasonably sufficient to establish the claimed authority” In my professional capacity as a nurse I have examined different forms that purported to establish a non-designated surrogate. Those forms were sometimes not completely filled in, did not list the circumstances for the establishing the surrogacy, and did not have a declaration under penalty of false swearing. There is no standard form for this and that is the difficulty. I urge the Committee to authorize the creation of a state-wide form, the completion of which will be required for a representative not designated by the patient who will have the responsibility for making medical decisions for that patient, and that this form embody all the language of 327E-7(i). If someone is in the position of making life-and-death decisions for a patient, such as authorizing a Do Not Resuscitate order, stopping antibiotics, etc., that authorization should be clear and oversight should be possible. Right now this is not the case. Thank you.

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SB2227

Submitted on: 2/24/2014

Testimony for JDL on Feb 25, 2014 10:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Valisa Saunders	Individual	Support	No

Comments: I am traveling, but strongly support SB2227 with implementation upon adoption in 2014. I am a Geriatric Nurse Practitioner at LEahi and Maluhia LTC Hospitals and am called upon by physicians and staff to assist with the most difficult discussions related to end of life issues and we often elect to complete a POLST form which memorializes legally what a patients goals of care are that makes it clear to all providers. My inability to sign the form has, at times, resulted in adverse outcomes for the patient because there is no physician that personally knows the patient on-site in a timely way. I have been doing this type of work for 30 years in Hawaii (even before the POLST). I do support the POLST, and think it a great tool, but we need to make this change to make things work better for our patients in Hawaii. Mahalo

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SB2227

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Submitted By	Organization	Testifier Position	Present at Hearing
Virginia Hinshaw	Individual	Support	No

Comments: Based on working with people committed to aging populations, I strongly support the bill SB2227 to update POLST.

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