

ACT 98

S.B. NO. 2529

A Bill for an Act Relating to Provider Orders for Life Sustaining Treatment Form.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that one of the most important documents for patients with a serious illness is a Provider Orders for Life-Sustaining Treatment (POLST), a portable medical order that documents a patient's care plan outside the hospital, reflecting "right now care" for the patient and setting forth the patient's wishes and directions to health care providers regarding the provision of resuscitative and life-sustaining measures. The POLST form is intended for a person with a chronic debilitating illness or a life-limiting disease, such as terminal cancer or end-stage lung or heart disease, and is followed by health care providers, paramedics, and firefighters.

The legislature further finds that in 2009, Hawaii was one of the first states to enact a law governing POLST and the program is now well-functioning and widespread throughout the State. However, the legislature finds that certain language in existing law impedes patients from obtaining POLST in a timely manner, thereby exposing the sickest and most vulnerable patients to the risk of receiving unwanted and unnecessary care.

Specifically, existing law requires the patient's physician or a health care provider to explain to the patient the nature and content of the POLST form, including any medical intervention or procedures, and the difference between an advance health-care directive and the form, and prepare the POLST form based on the patient's preferences and medical indications. Across the State and in a variety of settings, POLST conversations with patients are started by various

health care professionals, especially nurses and social workers. However, existing law requires POLST forms to be signed by the “patient’s provider”, defined as a licensed physician, advanced practice registered nurse, or physician assistant “who has examined the patient”. The legislature finds that this language can be interpreted as requiring a face-to-face encounter with the patient.

This examination requirement is most often an issue for patients in hospice care who are at the end of their lives, since medicare regulations do not require a face-to-face encounter with a physician or an advanced practice registered nurse until the patient has been in hospice care for at least six months. In Hawaii, the median length of stay for patients in hospice care is twenty-one days, meaning half of all patients in hospice care pass away within the first three weeks of care. In 2022, 4,774 medicare recipients died in hospice care. The challenges in obtaining a POLST can have large ramifications on these patients, such as receiving unwanted treatment if a POLST with the most current directions is not in place.

Accordingly, the purpose of this Act is to amend the definition of “patient’s provider” in existing law governing POLST forms to allow licensed physicians, physician assistants, and advanced practice registered nurses to sign POLST for their patients without a face-to-face encounter.

SECTION 2. Section 327K-1, Hawaii Revised Statutes, is amended by amending the definition of “patient’s provider” to read as follows:

““Patient’s provider” means a physician licensed pursuant to chapter 453, a physician assistant licensed pursuant to chapter 453, or an advanced practice registered nurse licensed pursuant to chapter 457 [~~who has examined the patient~~].”

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 27, 2024.)