
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 are 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 are
14 beneficial to people with serious illnesses, including dementia,
15 as they specify 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 form directly
2 with 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) Expanding health care provider signatory authority to
18 include advanced practice registered nurses and
19 updating statutory references accordingly; and
20 (2) Requiring the Department of Health to adopt a sample
21 POLST form.



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

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

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

6 1. By adding a new definition to be appropriately inserted
7 and to read:

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

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

14 "Form" means a [~~physician~~] provider orders for life-
15 sustaining treatment form adopted by the department.

16 "Patient's [~~physician~~] provider" means [a]:

17 (1) A physician licensed pursuant to chapter 453; or

18 (2) An advanced practice registered nurse recognized
19 pursuant to chapter 457,

20 who has examined the patient.

21 "~~Physician~~ Provider orders for life-sustaining treatment
22 form" means a form signed by a patient, or if incapacitated, by



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

7 3. By deleting the definition of "surrogate".

8 [~~"Surrogate" shall have the same meaning as in section~~
9 ~~327E-2."~~]

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

12 1. By amending subsection (a) to read:

13 "(a) The following may execute a form:

14 (1) The patient;

15 (2) The patient's [~~physician,~~] provider; and

16 (3) The [~~surrogate,~~] legally authorized representative,

17 but only if the patient[+

18 ~~(A) Lacks capacity, or~~

19 ~~(B) Has]~~ has designated that the [~~surrogate~~] legally

20 authorized representative is authorized to

21 execute the form.



1 To be validly executed, the form shall be signed by the
2 patient's provider and the patient, or the patient's provider
3 and the patient's legally authorized representative.

4 The patient's [physician] provider may medically evaluate
5 the patient and, based upon the evaluation, may recommend new
6 orders consistent with the most current information available
7 about the individual's health status and goals of care. The
8 patient's [physician] provider shall consult with the patient or
9 the patient's [surrogate] legally authorized representative
10 before issuing any new orders on a form. The patient or the
11 patient's [surrogate] legally authorized representative may
12 choose whether to execute [~~or not execute~~] any new form. If a
13 patient is incapacitated, the patient's [surrogate] legally
14 authorized representative shall consult with the patient's
15 [physician] provider before requesting the patient's [physician]
16 provider to modify treatment orders on the form. [~~To be valid,~~
17 ~~a form shall be signed by the patient's physician and the~~
18 ~~patient, or the patient's physician and the patient's~~
19 ~~surrogate.]~~

20 At any time, a patient, or, if incapacitated, the patient's
21 [~~surrogate,~~] legally authorized representative, may request



1 alternative treatment that differs from the treatment indicated
2 on the form."

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

4 "(d) A patient having capacity, or, if the patient is
5 incapacitated, the patient's [~~surrogate,~~] legally authorized
6 representative, may revoke a form at any time and in any manner
7 that communicates intent to revoke."

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

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

19 (1) Carrying out in good faith, a decision regarding
20 treatment orders, including cardiopulmonary
21 resuscitation by or on behalf of a patient pursuant to



1 orders in a form and in compliance with the standards
2 and procedures set forth in this chapter; or

3 (2) Providing cardiopulmonary resuscitation to a patient
4 for whom an order not to resuscitate has been issued
5 on a form; provided the person reasonably and in good
6 faith:

7 (A) Was unaware of the issuance of an order not to
8 resuscitate; or

9 (B) Believed that any consent to treatment orders,
10 including the order not to resuscitate, had been
11 revoked or canceled."

12 SECTION 6. The department of health shall adopt a sample
13 provider orders for life-sustaining treatment form pursuant to
14 chapter 91, Hawaii Revised Statutes.

15 SECTION 7. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 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 authorizing advanced practice registered nurses to sign orders. Clarifies language regarding persons authorized to act on patients' behalf. Requires the Department of Health to adopt a sample POLST form. Effective July 1, 2112. (HB2052 HD2)

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