
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 legislature finds that it is important for
2 people to make their preferences known regarding end-of-life
3 treatment. Health care planning is a process, rather than a
4 single decision, that helps individuals think about the kind of
5 care they would want if they become seriously ill or
6 incapacitated and encourages them to talk with their loved ones
7 and physicians. Advance health-care directives allow
8 individuals to put their health care wishes in writing and to
9 identify the person to represent them should they become unable
10 to speak for themselves.

11 The legislature finds that a physician orders for life
12 sustaining treatment program complements an advance health-care
13 directive by taking the individual's wishes regarding life-
14 sustaining treatment, such as those set forth in the advance
15 health-care directive, and converting those wishes into a
16 medical order. The hallmarks of a physician orders for life
17 sustaining treatment form are that:

- 1 (1) The orders contained in the standardized form are
- 2 immediately actionable, signed medical orders;
- 3 (2) The orders address a range of life sustaining
- 4 interventions as well as the patient's preferred
- 5 intensity of treatment for each intervention;
- 6 (3) The form is clearly identifiable and is available in
- 7 an electronic form;
- 8 (4) The form is recognized, adopted, and honored across
- 9 various treatment settings; and
- 10 (5) The form is particularly useful for individuals who
- 11 are frail and elderly or who have a compromised
- 12 medical condition, a prognosis of one year of life, or
- 13 a terminal illness.

14 The purpose of this Act is to allow for the use of a
 15 standardized physician orders for life sustaining treatment form
 16 that states an individual's wishes regarding end-of-life
 17 treatment in all pre-hospital and health care settings.

18 SECTION 2. The Hawaii Revised Statutes is amended by
 19 adding a new chapter to be appropriately designated and to read
 20 as follows:

21 **"CHAPTER**

22 **PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT**

1 § -1 **Definitions.** As used in this chapter:

2 "Department" means the department of health.

3 "Form" means a physician orders for life sustaining
4 treatment form adopted by the department.

5 "Health care provider" means an individual licensed,
6 certified, or otherwise authorized or permitted by law to
7 provide health care in the ordinary course of the individual's
8 business or profession.

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

11 "Physician orders for life sustaining treatment form" means
12 a form signed by a patient, or if incapacitated, by the
13 patient's surrogate as defined in section 327E-2, and the
14 patient's physician, that records the patient's wishes and that
15 directs a health care provider regarding the provision of
16 resuscitative and life sustaining measures. A physician orders
17 for life sustaining treatment form is not an advance health-care
18 directive.

19 § -2 **Physician orders for life sustaining treatment**
20 **form; execution; explanation; compliance; revocation.** (a) The
21 following may execute a form:

22 (1) The patient;

- 1 (2) The patient's physician; and
- 2 (3) The patient's surrogate as defined in section 327E-2,
- 3 but only if the patient:
- 4 (A) Lacks capacity; or
- 5 (B) Has designated that the patient's surrogate is
- 6 authorized to execute the form.
- 7 The patient's physician may medically evaluate the patient and,
- 8 based upon the evaluation, may recommend new orders consistent
- 9 with the most current information available about the
- 10 individual's health status and goals of care. The physician
- 11 shall consult with the patient or the patient's surrogate before
- 12 issuing any new orders on a form. The patient or the patient's
- 13 surrogate may choose to execute or not execute any new form. If
- 14 a patient is incapacitated, the patient's surrogate shall
- 15 consult with the patient's physician before requesting the
- 16 physician 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 surrogate. At any time, a patient, or
- 19 if incapacitated, the surrogate, may request alternative
- 20 treatment that differs from the treatment indicated on the form.
- 21 (b) The patient's physician or a health care provider
- 22 shall explain to the patient the nature and content of the form,

1 including any medical intervention or procedures, and shall also
2 explain the difference between an advance health-care directive
3 and the form. The form shall be prepared by the patient's
4 physician or a health care provider based on the patient's
5 preferences and medical indications.

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

14 (d) A patient having capacity may revoke a form at any
15 time and in any manner that communicates intent to revoke.

16 § -3 **Immunity.** (a) No physician, health care
17 professional, nurse's aide, hospice provider, home care
18 provider, including private duty and medicare home health
19 providers, emergency medical services provider, adult
20 residential care home operators, skilled nursing facility
21 operator, hospital, or person employed by or under contract with
22 a hospital shall be subject to criminal prosecution, civil

1 liability, or be deemed to have engaged in unprofessional
2 conduct for:

3 (1) Carrying out in good faith pursuant to this chapter a
4 decision regarding treatment orders, including
5 cardiopulmonary resuscitation by or on behalf of a
6 patient or for those actions taken in compliance with
7 the standards and procedures set forth in this
8 chapter; or

9 (2) Providing cardiopulmonary resuscitation to a patient
10 for whom an order not to resuscitate has been issued
11 on a form; provided the person reasonably and in good
12 faith:

13 (A) Was unaware of the issuance of an order not to
14 resuscitate; or

15 (B) Believed that consent to treatment orders,
16 including the order not to resuscitate, had been
17 revoked or canceled.

18 (b) No person shall be subject to criminal prosecution or
19 civil liability for consenting or declining to consent, in good
20 faith and on behalf of a patient, to the issuance of an order
21 not to resuscitate pursuant to this chapter.

1 § -4 **Rules.** The director of health may adopt rules in
2 accordance with chapter 91 to carry out this chapter."

3 SECTION 3. This Act shall take effect on July 1, 2009.

Report Title:

Physician Orders for Life Sustaining Treatment

Description:

Creates a process for a patient to direct end-of-life treatment in a standardized physician orders for life sustaining form.

(SD1)