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# 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 implement the use of a  
15 standardized form that states an individual's wishes regarding  
16 end-of-life treatment in all pre-hospital and health care  
17 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.

5           "Physician orders for life sustaining treatment form" means  
6 a form designed by the department and signed by a patient, or if  
7 incapacitated, by the patient's surrogate as defined in section  
8 327E-1, and the patient's physician, that records the patient's  
9 wishes and that directs a health care provider regarding the  
10 provision of resuscitative and life sustaining measures. A  
11 physician orders for life sustaining treatment form is not an  
12 advance health care directive.

13           §   -2 **Physician orders for life sustaining treatment**

14 **form; execution; explanation; compliance; revocation.** (a) The  
15 following may execute a form:

16           (1) A patient; and

17           (2) A patient's surrogate as defined in section 327E-1,  
18 but only if the patient:

19                   (A) Lacks capacity; or

20                   (B) Has designated that the patient's surrogate is  
21 authorized to execute the form.



1 The patient's physician may medically evaluate the patient and,  
2 based upon the evaluation, may recommend new orders consistent  
3 with the most current information available about the  
4 individual's health status and goals of care. The physician  
5 shall consult with the patient or the patient's surrogate before  
6 issuing any new orders on a form. The patient or the patient's  
7 surrogate may choose to execute or not execute any new form. If  
8 a patient is incapacitated, the patient's surrogate shall  
9 consult with the patient's physician and the patient's treating  
10 physician, if not the same, before requesting the physician to  
11 modify treatment orders on the form. To be valid, a form shall  
12 be signed by the patient's physician and the patient or the  
13 patient's surrogate. At any time, a patient, or if  
14 incapacitated, the surrogate, may request alternative treatment  
15 that differs from the treatment indicated on the form.

16 (b) The patient's physician, treating physician, or a  
17 health care provider shall explain to the patient the nature and  
18 content of the form, including any medical intervention or  
19 procedures, and shall also explain the difference between an  
20 advance health care directive and the form. The form shall be  
21 prepared by the patient's physician, treating physician, or a



1 health care provider based on the patient's preferences and  
2 medical indications.

3 (c) Any health care provider, including the patient's  
4 physician and treating physician, if not the same, shall comply  
5 with a properly executed and signed form and treats the patient  
6 according to the orders on the form; provided that compliance  
7 shall not be required if the orders on the form request  
8 medically ineffective health care or health care that is  
9 contrary to generally accepted health care standards.

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

12 § -3 **Immunity.** (a) No physician, health care  
13 professional, nurse's aide, hospice provider, home care  
14 provider, including private duty and medicare home health  
15 providers, emergency medical services provider, adult  
16 residential care home operators, skilled nursing facility  
17 operator, hospital, or person employed by or under contract with  
18 a hospital shall be subject to criminal prosecution, civil  
19 liability, or be deemed to have engaged in unprofessional  
20 conduct for:

21 (1) Carrying out in good faith pursuant to this chapter a  
22 decision regarding treatment orders, including



1 cardiopulmonary resuscitation by or on behalf of a  
2 patient or for those actions taken in compliance with  
3 the standards and procedures set forth in this  
4 chapter; or

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

9 (A) Was unaware of the issuance of an order not to  
10 resuscitate; or

11 (B) Believed that consent to treatment orders,  
12 including the order not to resuscitate had been  
13 revoked or canceled.

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

18 § -4 **Rules.** The director of health shall adopt rules in  
19 accordance with chapter 91 to carry out this chapter."

20 SECTION 3. Chapter 321, Hawaii Revised Statutes, is  
21 amended by adding a new section to be appropriately designated  
22 and to read as follows:



1           "§321-           Physician orders for life sustaining treatment;  
2 design of form; rules. (a) Pursuant to chapter           , the  
3 department shall require all private health care facilities and  
4 hospitals in the State to adopt the use of a standardized  
5 physician orders for life sustaining treatment form pursuant to  
6 chapter           . The department shall design a standardized form  
7 to be used statewide.

8           (b) The director of health shall adopt rules in accordance  
9 with chapter 91 to carry out this section."

10           SECTION 4. Chapter 323F, Hawaii Revised Statutes, is  
11 amended by adding a new section to be appropriately designated  
12 and to read as follows:

13           "§323F-           Physician orders for life sustaining treatment  
14 form; rules. (a) Pursuant to chapter           , the corporation  
15 shall require all health care facilities and community hospitals  
16 within the Hawaii health systems corporation to adopt the use of  
17 a standardized physician orders for life sustaining treatment  
18 form designed by the department of health.

19           (b) The corporation shall adopt rules in accordance with  
20 chapter 91 to carry out this section."

21           SECTION 5. New statutory material is underscored.

22           SECTION 6. This Act shall take effect upon its approval.



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INTRODUCED BY:

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**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. Requires department of health to design the form. Requires department of health and Hawaii health systems corporation to require adoption of the form in their respective health facilities.

