

STATE OF WYOMING GENERAL SESSION 2015

Chapter 189

PROVIDERS' ORDERS FOR LIFE SUSTAINING TREATMENT

Original House Bill No. 162

AN ACT relating to public health; creating the Provider Orders for Life Sustaining Treatment Program Act; providing for execution of health care treatment documents and orders as specified; requiring compliance with medical orders as specified; providing for civil and criminal immunity as specified; requiring rulemaking; providing for continued effectiveness of prior medical directives; repealing the cardiopulmonary resuscitation directives statute; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-22-501 through 35-22-509 are created to read:

ARTICLE 5

PROVIDER ORDERS FOR LIFE SUSTAINING TREATMENT
PROGRAM ACT

35-22-501. Short title.

This article shall be known and may be cited as the "Provider Orders for Life Sustaining Treatment Program Act."

35-22-502. POLST program.

(a) The provider orders for life sustaining treatment (POLST) program is a process of evaluation and communication between a patient, or the patient's agent, guardian or surrogate, and health care professionals in order to:

(i) Ensure that health care providers understand the desires of the patient, or the patient's agent, guardian or surrogate, regarding medical treatment as the patient nears the end of life;

(ii) Convert the patient's goals and preferences for care into a set of medical orders on a POLST form that is portable across care settings to be complied with by all health professionals; and

(iii) Provide the patient and the patient's agent, guardian or surrogate, if any, with a copy of the completed POLST form.

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(b) Unless otherwise provided in this article, terms in this article shall have the same meaning as in the Wyoming Health Care Decisions Act.

35-22-503. POLST form; who may execute.

(a) Any adult who has the capacity to provide informed consent to, or refusal of, medical treatment may execute a POLST form.

(b) Any adult authorized pursuant to the laws of this state or any other state to make medical treatment decisions on behalf of a person who lacks capacity may execute a POLST form on behalf of that person.

(c) If a patient who lacks capacity has not executed a valid advance directive or a valid POLST form, a surrogate may execute a POLST form on behalf of the patient as provided in W.S. 35-22-406. If a valid advance directive or POLST form executed by the patient forbids changes by a surrogate, a surrogate shall not execute or change a POLST form on behalf of the patient.

(d) An individual acting in good faith as agent, guardian or surrogate under this act shall not be subject to civil liability or criminal prosecution for executing a POLST form as provided in this act on behalf of a patient who lacks capacity.

(e) If medical orders on a POLST form relate to a minor and direct that life sustaining treatment be withheld from the minor, the order shall include a certification by two (2) health care providers that, in their clinical judgment, an order to withhold treatment is in the best interest of the minor.

35-22-504. POLST forms; department of health duties.

(a) The department of health shall promulgate rules implementing this act and prescribing a standardized POLST form, subject to the following:

(i) The rules shall contain protocols for the implementation of a standardized POLST form, which shall be available in electronic format on the department website for downloading by patients and providers;

(ii) The department in formulating rules and forms shall consult with health care professional licensing groups, provider advocacy groups, patient advocacy groups, medical ethicists and other appropriate stakeholders;

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(iii) To the extent possible, the standardized POLST form and protocols shall be consistent with use across all health care settings, shall reflect nationally recognized standards for end-of-life care and shall include:

(A) The patient's directive concerning the administration of life sustaining treatment;

(B) The dated signature of the patient or, if applicable, the patient's agent, guardian or surrogate;

(C) The name, address and telephone number of the patient's primary health care provider;

(D) The dated signature of the primary health care provider entering medical orders on the POLST form, who certifies that the signing provider discussed the patient's care goals and preferences with the patient or the patient's agent, guardian or surrogate.

(b) The department in implementing this article shall:

(i) Recommend a uniform method of identifying persons who have executed a POLST form and providing health care providers with contact information of the person's primary health care provider;

(ii) Oversee the education of health care providers regarding the POLST program under the department's licensing authority;

(iii) Develop a process for collecting provider feedback to enable periodic redesign of the POLST form in accordance with current health care practice;

(iv) Adopt a plan to convert the cardiopulmonary resuscitation directive program under W.S. 35-22-203 to a POLST program by January 1, 2016.

35-22-505. Duty to comply with POLST form; immunity, effect on criminal charges against another person.

(a) Emergency medical service personnel, health care providers and health care facilities, absent actual notice of revocation or termination of a POLST form, shall comply with the orders on a person's POLST form. Any emergency

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medical service personnel, health care provider or health care facility or any other person who, in good faith and in accordance with generally accepted health care standards applicable to the health care professional or institution, complies with orders on a POLST form shall not be subject to civil liability, criminal prosecution, regulatory sanction or discipline for unprofessional conduct.

(b) Compliance by emergency medical service personnel, health care providers or health care facilities with orders on a POLST form shall not affect the criminal prosecution of any person otherwise charged with the commission of a criminal act.

(c) In the absence of a valid POLST form, other provider orders documented in a medical record or an advance health care directive available to the treating provider, an individual's consent to life sustaining treatment shall be presumed.

(d) A POLST form from another state, absent actual notice of revocation or termination, shall be presumed to be valid and shall be effective in this state.

(e) Emergency medical service personnel, health care providers and health care facilities shall comply with the orders on a POLST form without regard to whether the ordering provider is on the medical staff of the treating health care facility.

(f) If a patient whose goals and preferences for care have been entered on a valid POLST form is transferred from one (1) health care facility to another, the health care facility initiating the transfer shall communicate the existence of the POLST form to the receiving facility prior to the transfer. The POLST form shall accompany the individual to the receiving facility and shall remain in effect. The POLST form shall be reviewed by the treating health care professional and made into a medical order at the receiving facility unless the POLST form is replaced or voided as provided in this article.

(g) To the extent that the orders on a POLST form described in this section conflict with the provisions of an advance directive made under W.S. 35-22-403, the most recent of those documents signed by the patient takes precedence.

35-22-506. POLST form not a prerequisite for services.

Facilities or providers shall not require a person to complete a POLST form as

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a prerequisite or condition for the provision of services or treatment.

35-22-507. Presence or absence of POLST form; effect on life or health insurance.

An individual's execution of or refusal or failure to execute a POLST form shall not affect, impair or modify any contract of life or health insurance or annuity to which the individual is a party, shall not be the basis for any delay in issuing or refusing to issue an annuity or policy of life or health insurance and shall not be the basis for any increase or decrease in premium charged to the individual.

35-22-508. Revocation of POLST form.

(a) An individual's consent to all or part of a POLST form may be revoked at any time and in any manner that communicates the individual's intent to revoke. Any oral revocation shall, as soon as possible after the revocation, be documented in a writing signed and dated by the individual or a witness to the revocation.

(b) An agent, guardian or surrogate who created a POLST form for a patient may revoke all or part of the POLST form at any time in writing signed by the agent, guardian or surrogate.

(c) A health care professional, agent, guardian or surrogate who is informed of a revocation shall promptly communicate the fact of the revocation to the patient's primary care physician, the current supervising health care professional and any health care facility at which the patient is receiving care.

(d) Upon revocation, the POLST form shall be void.

35-22-509. Effect of act on euthanasia; mercy killing; construction of statute.

Nothing in this article shall be construed as condoning, authorizing or approving euthanasia or mercy killing. In addition, the legislature does not intend that this article be construed as permitting any affirmative or deliberate act to end a person's life, except to permit natural death as provided by this article.

Section 2. W.S. 35-22-201 through 35-22-208 are repealed effective July 1,

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2016.

Section 3. The department of health shall adopt initial rules implementing this act and prescribe a standardized POLST form by January 1, 2016.

Section 4.

(a) Section 3 of this act is effectively immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(b) Except as provided in subsection (a) of this section, this act is effective July 1, 2015.

Approved March 9, 2015.