

HOUSE BILL NO. HB0162

Providers' orders for life sustaining treatment.

Sponsored by: Representative(s) Wilson, Brown, Esquibel,
K., Harvey, Kasperik and Winters and
Senator(s) Craft and Ross

A BILL

for

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

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

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

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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;

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

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

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

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14 **35-22-503. POLST form; who may execute.**

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

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

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2 (c) If a patient who lacks capacity has not executed
3 a valid advance directive, a surrogate may execute a POLST
4 form on behalf of the patient as provided in W.S.
5 35-22-406.

6

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

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

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20 **35-22-504. POLST forms; department of health duties.**

21

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

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

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

14

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

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

23

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

3

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

6

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

12

13 (b) The department in implementing this article
14 shall:

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

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

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

5

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

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10 **35-22-505. Duty to comply with POLST form; immunity,**
11 **effect on criminal charges against another person.**

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13 (a) Emergency medical service personnel, health care
14 providers and health care facilities, absent actual notice
15 of revocation or termination of a POLST form, shall comply
16 with the orders on a person's POLST form. Any emergency
17 medical service personnel, health care provider or health
18 care facility or any other person who, in good faith and in
19 accordance with generally accepted health care standards
20 applicable to the health care professional or institution,
21 complies with orders on a POLST form shall not be subject
22 to civil liability, criminal prosecution, regulatory
23 sanction or discipline for unprofessional conduct.

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

7

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

13

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

17

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

23

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

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

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19 **35-22-506. POLST form not a prerequisite for**
20 **services.**

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1 Facilities or providers shall not require a person to
2 complete a POLST form as a prerequisite or condition for
3 the provision of services or treatment.

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5 **35-22-507. Presence or absence of POLST form; effect**
6 **on life or health insurance.**

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

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17 **35-22-508. Revocation of POLST form.**

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19 (a) An individual's consent to all or part of a POLST
20 form may be revoked at any time and in any manner that
21 communicates the individual's intent to revoke. Any oral
22 revocation shall, as soon as possible after the revocation,

1 be documented in a writing signed and dated by the
2 individual or a witness to the revocation.

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

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

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

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18 **35-22-509. Effect of act on euthanasia; mercy**
19 **killing; construction of statute.**

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21 Nothing in this article shall be construed as condoning,
22 authorizing or approving euthanasia or mercy killing. In
23 addition, the legislature does not intend that this article

1 be construed as permitting any affirmative or deliberate
2 act to end a person's life, except to permit natural death
3 as provided by this article.

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5 **Section 2.** W.S. 35-22-201 through 35-22-208 are
6 repealed effective July 1, 2016.

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

11

12 **Section 4.**

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

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

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(END)