

1 A bill to be entitled
2 An act relating to physician orders for life-
3 sustaining treatment; amending ss. 395.1041, 400.142,
4 and 400.487, F.S.; authorizing specified personnel to
5 withhold or withdraw cardiopulmonary resuscitation if
6 presented with orders not to resuscitate or POLST
7 forms that contain orders not to resuscitate;
8 providing such personnel with immunity from criminal
9 prosecution or civil liability for such actions;
10 providing that the absence of such orders or forms
11 does not preclude physicians or home health agency
12 personnel from withholding or withdrawing
13 cardiopulmonary resuscitation under certain
14 conditions; amending s. 400.605, F.S.; requiring the
15 Department of Elderly Affairs, in consultation with
16 the Agency for Health Care Administration, to adopt by
17 rule procedures for the implementation of POLST forms
18 in hospice care; amending s. 400.6095, F.S.;
19 authorizing hospice care teams to withhold or withdraw
20 cardiopulmonary resuscitation if presented with POLST
21 forms that contain orders not to resuscitate;
22 providing hospice staff with immunity from criminal
23 prosecution or civil liability for such actions;
24 providing that the absence of a POLST form does not
25 preclude physicians from withholding or withdrawing

26 cardiopulmonary resuscitation; amending s. 401.35,
27 F.S.; requiring the Department of Health to establish
28 circumstances and procedures for honoring POLST forms;
29 amending s. 401.45, F.S.; authorizing emergency
30 medical personnel to withhold or withdraw
31 cardiopulmonary resuscitation or other medical
32 interventions if presented with POLST forms that
33 contain orders not to resuscitate; creating s.
34 401.451, F.S.; establishing the Physician Order for
35 Life-Sustaining Treatment (POLST) Program within the
36 Department of Health; providing requirements for POLST
37 forms; providing duties of the department; providing a
38 restriction on the use of POLST forms; providing for
39 the revocation of POLST forms under certain
40 circumstances; specifying which document takes
41 precedence when directives in POLST forms conflict
42 with other advance directives; providing limited
43 immunity for legal representatives and specified
44 health care providers relying in good faith on POLST
45 forms; specifying additional requirements for POLST
46 forms executed on behalf of minor patients under
47 certain circumstances; requiring the review of POLST
48 forms upon the transfer of a patient; prohibiting
49 POLST forms from being required as a condition for
50 treatment or admission to health care facilities;

51 providing that the presence or absence of POLST forms
52 does not affect, impair, or modify certain insurance
53 contracts; declaring POLST forms invalid if they are
54 executed in exchange for payment or other
55 remuneration; providing construction; amending s.
56 429.255, F.S.; authorizing assisted living facility
57 personnel to withhold or withdraw cardiopulmonary
58 resuscitation or the use of an automated external
59 defibrillator if presented with POLST forms that
60 contain orders not to resuscitate; providing facility
61 staff and facilities with immunity from criminal
62 prosecution or civil liability for such actions;
63 providing that the absence of a POLST form does not
64 preclude physicians from withholding or withdrawing
65 cardiopulmonary resuscitation or the use of an
66 automated external defibrillator; amending s. 429.73,
67 F.S.; requiring the Department of Elderly Affairs to
68 adopt rules for the implementation of POLST forms in
69 adult family-care homes; authorizing providers of such
70 homes to withhold or withdraw cardiopulmonary
71 resuscitation if presented with POLST forms that
72 contain orders not to resuscitate; providing such
73 providers with immunity from criminal prosecution or
74 civil liability for such actions; amending s. 456.072,
75 F.S.; authorizing licensees to withhold or withdraw

76 cardiopulmonary resuscitation or the use of an
 77 automated external defibrillator if presented with
 78 orders not to resuscitate or POLST forms that contain
 79 orders not to resuscitate; requiring the Department of
 80 Health to adopt rules providing for the implementation
 81 of such orders or forms; providing licensees with
 82 immunity from criminal prosecution or civil liability
 83 for withholding or withdrawing cardiopulmonary
 84 resuscitation or the use of an automated external
 85 defibrillator if presented with such orders or forms;
 86 providing that the absence of such orders or forms
 87 does not preclude licensees from withholding or
 88 withdrawing cardiopulmonary resuscitation or the use
 89 of an automated external defibrillator; amending s.
 90 765.205, F.S.; requiring health care surrogates to
 91 provide written consent for POLST forms under certain
 92 circumstances; providing an effective date.

93
 94 Be It Enacted by the Legislature of the State of Florida:

95
 96 Section 1. Paragraph (1) of subsection (3) of section
 97 395.1041, Florida Statutes, is amended to read:

98 395.1041 Access to emergency services and care.—

99 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
 100 FACILITY OR HEALTH CARE PERSONNEL.—

101 (1) Hospital personnel may withhold or withdraw
 102 cardiopulmonary resuscitation if presented with an order not to
 103 resuscitate executed pursuant to s. 401.45 or a physician order
 104 for life-sustaining treatment (POLST) form executed pursuant to
 105 s. 401.451 that contains an order not to resuscitate. Facility
 106 staff and facilities are ~~shall~~ not ~~be~~ subject to criminal
 107 prosecution or civil liability, and are not ~~nor be~~ considered to
 108 have engaged in negligent or unprofessional conduct, for
 109 withholding or withdrawing cardiopulmonary resuscitation
 110 pursuant to such an order or POLST form. The absence of an order
 111 not to resuscitate executed pursuant to s. 401.45 or a POLST
 112 form executed pursuant to s. 401.451 that contains an order not
 113 to resuscitate does not preclude a physician from withholding or
 114 withdrawing cardiopulmonary resuscitation as otherwise
 115 authorized ~~permitted~~ by law.

116 Section 2. Subsection (3) of section 400.142, Florida
 117 Statutes, is amended to read:

118 400.142 Emergency medication kits; orders not to
 119 resuscitate.—

120 (3) Facility staff may withhold or withdraw
 121 cardiopulmonary resuscitation if presented with an order not to
 122 resuscitate executed pursuant to s. 401.45 or a physician order
 123 for life-sustaining treatment (POLST) form executed pursuant to
 124 s. 401.451 that contains an order not to resuscitate. Facility
 125 staff and facilities are not subject to criminal prosecution or

126 civil liability, or considered to have engaged in negligent or
127 unprofessional conduct, for withholding or withdrawing
128 cardiopulmonary resuscitation pursuant to such an order or POLST
129 form. The absence of an order not to resuscitate executed
130 pursuant to s. 401.45 or a POLST form executed pursuant to s.
131 401.451 that contains an order not to resuscitate does not
132 preclude a physician from withholding or withdrawing
133 cardiopulmonary resuscitation as otherwise authorized ~~permitted~~
134 by law.

135 Section 3. Subsection (7) of section 400.487, Florida
136 Statutes, is amended to read:

137 400.487 Home health service agreements; physician's,
138 physician assistant's, and advanced registered nurse
139 practitioner's treatment orders; patient assessment;
140 establishment and review of plan of care; provision of services;
141 orders not to resuscitate; physician orders for life-sustaining
142 treatment.—

143 (7) Home health agency personnel may withhold or withdraw
144 cardiopulmonary resuscitation if presented with an order not to
145 resuscitate executed pursuant to s. 401.45 or a physician order
146 for life-sustaining treatment (POLST) form executed pursuant to
147 s. 401.451 that contains an order not to resuscitate. The agency
148 shall adopt rules providing for the implementation of such
149 orders. Home health personnel and agencies are ~~shall not be~~
150 subject to criminal prosecution or civil liability, and are not

151 ~~not be~~ considered to have engaged in negligent or unprofessional
 152 conduct, for withholding or withdrawing cardiopulmonary
 153 resuscitation pursuant to such an order or POLST form and rules
 154 adopted by the agency.

155 Section 4. Paragraph (e) of subsection (1) of section
 156 400.605, Florida Statutes, is amended to read:

157 400.605 Administration; forms; fees; rules; inspections;
 158 fines.—

159 (1) The agency, in consultation with the department, may
 160 adopt rules to administer the requirements of part II of chapter
 161 408. The department, in consultation with the agency, shall by
 162 rule establish minimum standards and procedures for a hospice
 163 pursuant to this part. The rules must include:

164 (e) Procedures relating to the implementation of advance
 165 ~~advanced~~ directives; physician order for life-sustaining
 166 treatment (POLST) forms executed pursuant to s. 401.451 that
 167 contain orders not to resuscitate; and orders not to resuscitate
 168 ~~do not resuscitate orders.~~

169 Section 5. Subsection (8) of section 400.6095, Florida
 170 Statutes, is amended to read:

171 400.6095 Patient admission; assessment; plan of care;
 172 discharge; death.—

173 (8) The hospice care team may withhold or withdraw
 174 cardiopulmonary resuscitation if presented with an order not to
 175 resuscitate executed pursuant to s. 401.45 or a physician order

176 for life-sustaining treatment (POLST) form executed pursuant to
177 s. 401.451 that contains an order not to resuscitate. The
178 department shall adopt rules providing for the implementation of
179 such orders. Hospice staff are ~~shall~~ not be subject to criminal
180 prosecution or civil liability, and are not ~~nor be~~ considered to
181 have engaged in negligent or unprofessional conduct, for
182 withholding or withdrawing cardiopulmonary resuscitation
183 pursuant to such an order or POLST form and applicable rules.
184 The absence of an order to resuscitate executed pursuant to s.
185 401.45 or a POLST form executed pursuant to s. 401.451 that
186 contains an order not to resuscitate does not preclude a
187 physician from withholding or withdrawing cardiopulmonary
188 resuscitation as otherwise authorized ~~permitted~~ by law.

189 Section 6. Subsection (4) of section 401.35, Florida
190 Statutes, is amended to read:

191 401.35 Rules.—The department shall adopt rules, including
192 definitions of terms, necessary to carry out the purposes of
193 this part.

194 (4) The rules must establish circumstances and procedures
195 under which emergency medical technicians and paramedics may
196 honor orders by the patient's physician not to resuscitate
197 executed pursuant to s. 401.45 or physician order for life-
198 sustaining treatment (POLST) forms executed pursuant to s.
199 401.451 that contain orders not to resuscitate and the
200 documentation and reporting requirements for handling such

201 requests.

202 Section 7. Paragraph (a) of subsection (3) of section
203 401.45, Florida Statutes, is amended to read:

204 401.45 Denial of emergency treatment; civil liability.—

205 (3) (a) Resuscitation or other forms of medical
206 intervention may be withheld or withdrawn from a patient by an
207 emergency medical technician, ~~or paramedic,~~ or other health care
208 professional if evidence of an order not to resuscitate by the
209 patient's physician or a physician order for life-sustaining
210 treatment (POLST) form executed pursuant to s. 401.451 that
211 contains an order not to resuscitate is presented to the
212 emergency medical technician, ~~or paramedic,~~ or other health care
213 professional. To be valid, an order not to resuscitate or not to
214 perform other medical intervention, ~~to be valid,~~ must be on the
215 form adopted by rule of the department. The form must be signed
216 by the patient's physician and by the patient or, if the patient
217 is incapacitated, the patient's health care surrogate or proxy
218 as provided in chapter 765, court-appointed guardian as provided
219 in chapter 744, or attorney in fact under a durable power of
220 attorney as provided in chapter 709 or, if the patient is a
221 minor, the patient's parent or legal guardian. The court-
222 appointed guardian or attorney in fact must have been delegated
223 authority to make health care decisions on behalf of the
224 patient.

225 Section 8. Section 401.451, Florida Statutes, is created

226 | to read:

227 | 401.451 Physician Order for Life-Sustaining Treatment
 228 | Program.—

229 | (1) POLST FORM.—A physician order for life-sustaining
 230 | treatment (POLST) must be on the form adopted by rule of the
 231 | department which must include the statutory requirements
 232 | specified in this section and must be executed as required by
 233 | this section.

234 | (a) A POLST form may only be completed by or for a patient
 235 | determined by the patient's physician to have an end-stage
 236 | condition as defined in s. 765.101(4) or a patient who, in the
 237 | good faith clinical judgment of his or her physician, is
 238 | suffering from at least one terminal medical condition that will
 239 | likely result in the death of the patient within 1 year.

240 | (b) A POLST form must be signed by the patient's
 241 | physician. The form must contain a certification by the
 242 | physician signing the POLST form that the physician consulted
 243 | with the patient signing the form, or if the patient is
 244 | incapable of making health care decisions for herself or himself
 245 | or is incapacitated, with the patient's health care surrogate,
 246 | proxy, court-appointed guardian or attorney-in-fact permitted to
 247 | execute a POLST form on behalf of the patient as provided in
 248 | paragraph (c), and include information about the patient's care
 249 | goals and preferences selected as reflected on the POLST form,
 250 | specifically including the use of and the effect of removal or

251 refusal of life-sustaining medical treatment. The physician
252 signing the POLST form must further indicate the medical
253 circumstance justifying the execution of the POLST.

254 (c) A POLST form must also be signed by the patient, or if
255 the patient is incapable of making health care decisions for
256 herself or himself or is incapacitated, by the patient's health
257 care surrogate or proxy as provided in chapter 765, or if none,
258 by the patient's court-appointed guardian if the guardian has
259 such authority as provided in chapter 744, or if none, by the
260 patient's attorney-in-fact if the patient has delegated the
261 power to make all health care decisions to the attorney-in-fact
262 as provided in chapter 709. If a POLST form is signed by a
263 health care surrogate, proxy, court-appointed guardian, or
264 attorney-in-fact, the patient's physician must certify the basis
265 for the authority of the appropriate individual to execute the
266 POLST form on behalf of the patient including compliance with
267 chapter 765, chapter 744, or chapter 709.

268 (d) The execution of a POLST form by the patient
269 automatically revokes all POLST forms previously executed by the
270 patient.

271 (e) A patient's health care surrogate, proxy, court
272 appointed guardian, or attorney-in-fact permitted to execute a
273 POLST form on behalf of a patient as provided in paragraph (c)
274 may subsequently revoke a POLST form for a patient, unless a
275 valid advance directive or prior POLST form executed by the

276 patient expressly forbids changes by a surrogate, proxy,
277 guardian, or attorney-in-fact.

278 (f) An individual acting in good faith as a surrogate,
279 proxy, court-appointed guardian, or attorney-in-fact who
280 executes a POLST form on behalf of an incapacitated patient or a
281 minor patient in accordance with this section and rules adopted
282 by the department is not subject to criminal prosecution or
283 civil liability for executing the POLST form.

284 (g) If a family member of the patient, the health care
285 facility providing services to the patient, or the patient's
286 physician who may reasonably be expected to be affected by the
287 patient's POLST form directives believes that directives
288 executed by the patient's legal representative are in conflict
289 with the patient's prior expressed desires regarding end-of-life
290 care, the family member, facility, or physician may seek
291 expedited judicial intervention pursuant to the Florida Probate
292 Rules, if that person believes:

293 1. The POLST form regarding the patients' wishes regarding
294 life-sustaining treatment is ambiguous or the patient has
295 changed his or her mind after execution of the advance directive
296 or POLST form;

297 2. The POLST form was executed by a surrogate, proxy,
298 court-appointed guardian, or attorney-in-fact permitted to
299 execute a POLST form on behalf of a patient as provided in
300 section (c) and the POLST form is not in accord with the

301 patient's known desires or chapter 765, chapter 744, or chapter
302 709;

303 3. The POLST was executed by a surrogate, proxy, court-
304 appointed guardian, or attorney-in-fact on behalf of a patient
305 as provided in paragraph (c) and the surrogate, proxy, court-
306 appointed guardian, or attorney-in-fact was improperly
307 designated or appointed, or the designation of the surrogate,
308 proxy, court-appointed guardian, or attorney-in-fact is no
309 longer effective or has been removed;

310 4. The surrogate, proxy, court-appointed guardian, or
311 attorney-in-fact who executed the POLST form on behalf of the
312 patient as provided in paragraph (c) has failed to discharge her
313 or his duties, or incapacity or illness renders her or him
314 incapable of discharging those duties;

315 5. The POLST was executed by surrogate, proxy, court-
316 appointed guardian, or attorney-in-fact permitted to execute a
317 POLST form on behalf of a patient as provided in paragraph (c)
318 who has abused her or his powers; or

319 6. The patient has sufficient capacity to make her or his
320 own health care decisions.

321 (h) A POLST form may not include a directive regarding
322 hydration or the preselection of any decision or directive. A
323 POLST form must be voluntarily executed by the patient or, if
324 the patient is incapacitated or a minor, the patient's legal
325 representative, and all directives included in the form must be

326 made by the patient or, if the patient is incapacitated or a
327 minor, the patient's legal representative at the time of signing
328 the form. A POLST form is not valid and may not be included in a
329 patient's medical records or submitted to the clearinghouse
330 unless the form:

331 1. Is clearly printed on one or both sides of a single
332 piece of paper as determined by department rule;

333 2. Includes the signatures of the patient and the
334 patient's examining physician or, if the patient is
335 incapacitated or a minor, the patient's legal representative and
336 the patient's examining physician. The POLST form may be
337 executed only after the examining physician consults with the
338 patient or the patient's legal representative, as appropriate;

339 3. Prominently states that completion of a POLST form is
340 voluntary, that the execution or use of a POLST form may not be
341 required as a condition for medical treatment, and that a POLST
342 form may not be given effect if the patient is conscious and
343 competent to make health care decisions;

344 4. Prominently provides in a conspicuous location on the
345 form a space for the patient's examining physician to attest
346 that, in his or her clinical judgment and with good faith, at
347 the time the POLST form is completed and signed, the patient has
348 the ability to make and communicate health care decisions or, if
349 the patient is incapacitated or a minor, that the patient's
350 legal representative has such ability;

351 5. Includes an expiration date, provided by the patient's
352 examining physician, that is within 1 year after the patient or
353 the patient's legal representative signs the form or that is
354 contingent on completion of the course of treatment addressed in
355 the POLST form, whichever occurs first; and

356 6. Identifies the medical condition or conditions,
357 provided by the patient's examining physician, that necessitate
358 the POLST form.

359 (2) DUTIES OF THE DEPARTMENT.—

360 (a) Adopt rules to implement and administer the POLST
361 program.

362 (b) Prescribe a standardized POLST form.

363 (c) Provide the POLST form in an electronic format on the
364 department's website and prominently state on the website the
365 requirements for a POLST form as specified under paragraph
366 (3) (a).

367 (d) Consult with health care professional licensing
368 groups, provider advocacy groups, medical ethicists, and other
369 appropriate stakeholders on the development of rules and forms
370 to implement and administer the POLST program.

371 (e) Recommend a uniform method of identifying persons who
372 have executed a POLST form and providing health care providers
373 with contact information regarding the person's primary health
374 care provider.

375 (f) Oversee the education of health care providers

376 licensed by the department regarding implementation of the POLST
377 program.

378 (g) Develop a process for collecting provider feedback to
379 enable periodic redesign of the POLST form in accordance with
380 current health care best practices.

381 (3) DUTY TO COMPLY WITH POLST; OUT-OF-STATE POLST; LIMITED
382 IMMUNITY.—

383 (a) Emergency medical service personnel, health care
384 providers, physicians, and health care facilities, absent actual
385 notice of revocation or termination of a POLST form, may comply
386 with the orders on a person's POLST form, without regard to
387 whether the POLST ordering provider is on the medical staff of
388 the treating health care facility. If the POLST ordering
389 provider is not on the medical staff of the treating health care
390 facility, the POLST form shall be reviewed by the treating
391 health care professional at the receiving facility with the
392 patient, or the patient's health care surrogate, proxy, court-
393 appointed guardian, or attorney-in-fact permitted to execute a
394 POLST form on behalf of a patient as provided in paragraph
395 (1) (c), and made into a medical order at the receiving facility,
396 unless the POLST form is replaced or voided as provided in this
397 act.

398 (b) A POLST form from another state, absent actual notice
399 of revocation or termination, shall be presumed to be valid and
400 shall be effective in this state and shall be complied with to

401 the same extent as a POLST form executed in this state.

402 (c) Any licensee, physician, medical director, or
403 emergency medical technician or paramedic who acts in good faith
404 on a POLST is not subject to criminal prosecution or civil
405 liability, and has not engaged in negligent or unprofessional
406 conduct, as a result of carrying out the directives of the POLST
407 made in accordance with this section and rules adopted by the
408 department.

409 (4) PATIENT TRANSFER; POLST FORM REVIEW REQUIRED.—If a
410 patient whose goals and preferences for care have been entered
411 in a valid POLST form is transferred from one health care
412 facility or level of care to another, the health care facility
413 or level of care initiating the transfer must communicate the
414 existence of the POLST form to the receiving facility or level
415 of care before the transfer. Upon the patient's transfer, the
416 treating health care provider at the receiving facility or level
417 of care must review the POLST form with the patient or, if the
418 patient is incapacitated or a minor, the patient's health care
419 surrogate, proxy, court-appointed guardian, or attorney-in-fact.

420 (5) CONFLICTS WITH ADVANCE DIRECTIVES.—To the extent that
421 a directive made on a patient's POLST form conflicts with
422 another advance directive of the patient which addresses a
423 substantially similar health care condition or treatment, the
424 document most recently signed by the patient takes precedence.
425 Such directives may include, but are not limited to:

- 426 (a) A living will.
- 427 (b) A health care power of attorney.
- 428 (c) A POLST form for the specific medical condition or
429 treatment.
- 430 (d) An order not to resuscitate.
- 431 (6) POLST FORM FOR A MINOR PATIENT.—If a medical order on
432 a POLST form executed for a minor patient directs that life-
433 sustaining treatment may be withheld from the minor patient, the
434 order must include certifications by the patient's examining
435 physician and a health care provider other than the examining
436 physician stating that, in their clinical judgment, an order to
437 withhold medical treatment is in the best interest of the minor
438 patient. A POLST form for a minor patient must be signed by the
439 minor patient's legal representative. The minor patient's
440 examining physician must certify the basis for the authority of
441 the minor patient's legal representative to execute the POLST
442 form on behalf of the minor patient, including the legal
443 representative's compliance with the relevant provisions of
444 chapter 744 or chapter 765.
- 445 (7) POLST FORM NOT A PREREQUISITE.—A POLST form may not be
446 a prerequisite for receiving medical services or for admission
447 to a health care facility. A health care facility or health care
448 provider may not require an individual to complete, revise, or
449 revoke a POLST form as a condition of receiving medical services
450 or treatment or as a condition of admission. The execution,

451 revision, or revocation of a POLST form must be a voluntary
452 decision of the patient or, if the patient is incapacitated or a
453 minor, the patient's legal representative.

454 (8) REVOCATION OF A POLST FORM.—

455 (a) A POLST form may be revoked at any time by a patient
456 deemed to have capacity by means of:

457 1. A signed, dated writing;

458 2. The physical cancellation or destruction of the POLST
459 form by the patient or by another in the patient's presence and
460 at the patient's direction;

461 3. An oral expression of intent to revoke; or

462 4. A subsequently executed POLST form or advance directive
463 that is materially different from a previously executed POLST
464 form or advance directive.

465 (b) A surrogate, proxy, court-appointed guardian, or
466 attorney-in-fact permitted to execute a POLST form on behalf of
467 a patient as provided in paragraph (1)(c), who created a POLST
468 form for a patient, may revoke a POLST form at any time in a
469 writing signed by such surrogate, proxy, court-appointed
470 guardian, or attorney-in-fact.

471 (c) Any revocation of a POLST form shall be promptly
472 communicated to the patient's primary health care provider,
473 primary physician, and any health care facility at which the
474 patient is receiving care. Further, a health care professional,
475 surrogate, proxy, court-appointed guardian, or attorney-in-fact

476 who is informed of the revocation of a POLST form promptly
477 communicate the fact of the revocation to the patient's primary
478 care physician, the current supervising health care
479 professional, and any health care facility at which the patient
480 is receiving care, to the extent known to the surrogate, proxy,
481 court-appointed guardian, or attorney-in-fact.

482 (d) Upon revocation, a POLST form shall be void. A POLST
483 form may only be revoked in its entirety. A partial revocation
484 of a POLST form renders the entirety of the POLST form void.

485 (9) INSURANCE NOT AFFECTED.—The presence or absence of a
486 POLST form does not affect, impair, or modify a contract of life
487 or health insurance or an annuity to which an individual is a
488 party and may not serve as the basis for a delay in issuing or
489 refusing to issue a policy of life or health insurance or an
490 annuity or for an increase or decrease in premiums charged to
491 the individual.

492 (10) INVALIDITY.—A POLST form is invalid if payment or
493 other remuneration was offered or made in exchange for execution
494 of the form.

495 (11) CONSTRUCTION.—This section may not be construed to
496 condone, authorize, or approve mercy killing or euthanasia. The
497 Legislature does not intend that this act be construed as
498 authorizing an affirmative or deliberate act to end an
499 individual's life, except to allow the natural process of dying.

500 Section 9. Subsection (4) of section 429.255, Florida

501 Statutes, is amended to read:

502 429.255 Use of personnel; emergency care.—

503 (4) Facility staff may withhold or withdraw
 504 cardiopulmonary resuscitation or the use of an automated
 505 external defibrillator if presented with an order not to
 506 resuscitate executed pursuant to s. 401.45 or a physician order
 507 for life-sustaining treatment (POLST) form executed pursuant to
 508 s. 401.451 that contains an order not to resuscitate. The
 509 department shall adopt rules providing for the implementation of
 510 such an order or POLST form ~~orders~~. Facility staff and
 511 facilities are ~~shall~~ ~~be~~ subject to criminal prosecution or
 512 civil liability, and are not ~~nor be~~ considered to have engaged
 513 in negligent or unprofessional conduct, for withholding or
 514 withdrawing cardiopulmonary resuscitation or the use of an
 515 automated external defibrillator pursuant to such an order or
 516 POLST form and rules adopted by the department. The absence of
 517 an order not to resuscitate executed pursuant to s. 401.45 or a
 518 POLST form executed pursuant to s. 401.451 that contains an
 519 order not to resuscitate does not preclude a physician from
 520 withholding or withdrawing cardiopulmonary resuscitation or the
 521 use of an automated external defibrillator as otherwise
 522 authorized ~~permitted~~ by law.

523 Section 10. Subsection (3) of section 429.73, Florida
 524 Statutes, is amended to read:

525 429.73 Rules and standards relating to adult family-care

526 homes.—

527 (3) The department shall adopt rules providing for the
 528 implementation of orders not to resuscitate and physician order
 529 for life-sustaining treatment (POLST) forms executed pursuant to
 530 s. 401.451 that contain orders not to resuscitate. The provider
 531 may withhold or withdraw cardiopulmonary resuscitation if
 532 presented with an order not to resuscitate executed pursuant to
 533 s. 401.45 or a POLST form executed pursuant to s. 401.451 that
 534 contains an order not to resuscitate. The provider is ~~shall~~ not
 535 ~~be~~ subject to criminal prosecution or civil liability, and is
 536 not ~~nor be~~ considered to have engaged in negligent or
 537 unprofessional conduct, for withholding or withdrawing
 538 cardiopulmonary resuscitation pursuant to such an order or POLST
 539 form and applicable rules.

540 Section 11. Subsections (7) and (8) of section 456.072,
 541 Florida Statutes, are renumbered as subsections (8) and (9),
 542 respectively, and a new subsection (7) is added to that section
 543 to read:

544 456.072 Grounds for discipline; penalties; enforcement.—

545 (7) A licensee may withhold or withdraw cardiopulmonary
 546 resuscitation or the use of an automated external defibrillator
 547 if presented with an order not to resuscitate executed pursuant
 548 to s. 401.45 or a physician order for life-sustaining treatment
 549 (POLST) form executed pursuant to s. 401.451 that contains an
 550 order not to resuscitate. The department shall adopt rules

551 providing for the implementation of such an order or POLST form.
552 A licensee is not subject to criminal prosecution or civil
553 liability, and is not considered to have engaged in negligent or
554 unprofessional conduct, for withholding or withdrawing
555 cardiopulmonary resuscitation or the use of an automated
556 external defibrillator if presented with such an order or POLST
557 form. The absence of such an order or POLST form does not
558 preclude a licensee from withholding or withdrawing
559 cardiopulmonary resuscitation or the use of an automated
560 external defibrillator as otherwise authorized by law.

561 Section 12. Paragraph (c) of subsection (1) of section
562 765.205, Florida Statutes, is amended to read:

563 765.205 Responsibility of the surrogate.—

564 (1) The surrogate, in accordance with the principal's
565 instructions, unless such authority has been expressly limited
566 by the principal, shall:

567 (c) Provide written consent using an appropriate form
568 whenever consent is required, including a physician's order not
569 to resuscitate or a physician order for life-sustaining
570 treatment (POLST) form executed pursuant to s. 401.451 that
571 contains an order not to resuscitate.

572 Section 13. This act shall take effect July 1, 2018.