

By the Committee on Health Policy; and Senator Brandes

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1 A bill to be entitled
2 An act relating to physician orders for life-
3 sustaining treatment; creating s. 401.451, F.S.;
4 establishing the Physician Orders for Life-Sustaining
5 Treatment (POLST) Program within the Department of
6 Health; defining terms; requiring the department to
7 adopt rules to implement and administer the program;
8 requiring the department to develop and adopt by rule
9 a POLST form; providing requirements for the POLST
10 form; requiring the signature and attestation of a
11 physician on a POLST form; specifying that a POLST
12 form may not include directives regarding hydration;
13 requiring that POLST forms be voluntarily executed by
14 the patient and that all directives included in the
15 form be made at the time of the signing; providing
16 requirements for POLST forms; providing a restriction
17 on the execution of POLST forms; requiring periodic
18 review of POLST forms; providing for the revocation of
19 a POLST form; requiring the immediate review of a
20 POLST form in certain circumstances; specifying which
21 document controls when a POLST conflicts with other
22 advance directives; providing limited liability for
23 legal representatives and specified health care
24 providers acting in good faith in reliance on a POLST;
25 imposing additional requirements on a POLST form
26 executed on behalf of a minor patient in certain
27 circumstances; requiring review of a POLST form on the
28 transfer of the patient; prohibiting a POLST form from
29 being required as a condition for treatment; providing
30 that execution of a POLST form does not affect,
31 impair, or modify certain insurance contracts;
32 providing for the invalidity of POLST forms executed

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33 in return for payment or other remuneration; providing
34 legislative intent; creating s. 408.064, F.S.;
35 defining terms; requiring the Agency for Health Care
36 Administration to establish a database of
37 compassionate and palliative care plans by a specified
38 date; requiring that the database be electronically
39 accessible to health care providers; requiring that
40 the database allow the electronic submission, storage,
41 indexing, and retrieval of such plans, forms, and
42 directives by residents of this state; requiring that
43 the database comply with specified privacy and
44 security standards; requiring the agency to consult
45 with advisers and experts as necessary and appropriate
46 to facilitate the development and implementation of
47 the database; requiring the agency to publish and
48 disseminate information on the database to the public;
49 requiring the agency, in collaboration with the
50 department, to develop and maintain a process for the
51 submission of compassionate and palliative care plans
52 by residents or by health care providers on behalf of
53 and at the direction of their patients for inclusion
54 in the database; requiring the agency to provide
55 specified training; authorizing the agency to
56 subscribe to or participate in a public or private
57 clearinghouse in lieu of establishing and maintaining
58 an independent database; amending ss. 400.142 and
59 400.487, F.S.; authorizing specified personnel to
60 withhold or withdraw cardiopulmonary resuscitation if
61 a patient has a POLST form that contains such an

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62 order; providing immunity from civil and criminal
63 liability to such personnel for such actions;
64 providing that the absence of a POLST form does not
65 preclude a physician from withholding or withdrawing
66 cardiopulmonary resuscitation; amending s. 400.605,
67 F.S.; requiring the Department of Elderly Affairs, in
68 consultation with the agency, to adopt by rule
69 procedures for the implementation of POLST forms in
70 hospice care; amending s. 400.6095; F.S.; authorizing
71 a hospice care team to withhold or withdraw
72 cardiopulmonary resuscitation if a patient has a POLST
73 form that contains such an order; providing immunity
74 from civil and criminal liability to a provider for
75 such actions; providing that the absence of a POLST
76 form does not preclude a physician from withholding or
77 withdrawing cardiopulmonary resuscitation; amending s.
78 401.35, F.S.; requiring the Department of Health to
79 establish circumstances and procedures for honoring a
80 POLST form; amending s. 401.45, F.S.; authorizing
81 emergency medical transportation providers to withhold
82 or withdraw cardiopulmonary resuscitation or other
83 medical interventions if a patient has a POLST form
84 that contains such an order; amending s. 429.255,
85 F.S.; authorizing assisted living facility personnel
86 to withhold or withdraw cardiopulmonary resuscitation
87 if a patient has a POLST form that contains such an
88 order; providing immunity from civil and criminal
89 liability to facility staff and facilities for such
90 actions; providing that the absence of a POLST form

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91 does not preclude a physician from withholding or
92 withdrawing cardiopulmonary resuscitation; amending s.
93 429.73, F.S.; requiring the Department of Elderly
94 Affairs to adopt rules for the implementation of POLST
95 forms in adult family-care homes; authorizing a
96 provider of such home to withhold or withdraw
97 cardiopulmonary resuscitation if a patient has a POLST
98 form that contains such an order; providing immunity
99 from civil and criminal liability to a provider for
100 such actions; amending s. 456.072, F.S.; providing
101 that a licensee may withhold or withdraw
102 cardiopulmonary resuscitation or the use of an
103 external defibrillator if presented with an order not
104 to resuscitate or a POLST form that contains an order
105 not to resuscitate; requiring the Department of Health
106 to adopt rules providing for the implementation of
107 such orders; providing immunity to licensees for
108 withholding or withdrawing cardiopulmonary
109 resuscitation or the use of an automated defibrillator
110 pursuant to such orders; amending s. 765.205, F.S.;
111 requiring a health care surrogate to provide written
112 consent for a POLST form under certain circumstances;
113 providing an effective date.

114
115 Be It Enacted by the Legislature of the State of Florida:

116
117 Section 1. Section 401.451, Florida Statutes, is created to
118 read:

119 401.451 Physician Orders for Life-Sustaining Treatment

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120 Program.—The Physician Orders for Life-Sustaining Treatment
121 Program is established within the Department of Health to
122 implement and administer the development and use of physician
123 orders for life-sustaining treatment consistent with this
124 section and to collaborate with the Agency for Health Care
125 Administration in the implementation and operation of the
126 Clearinghouse for Compassionate and Palliative Care Plans
127 created under s. 408.064.

128 (1) DEFINITIONS.—As used in this section, the term:

129 (a) "Advance directive" has the same meaning as in s.
130 765.101.

131 (b) "Agency" means the Agency for Health Care
132 Administration.

133 (c) "Clearinghouse for Compassionate and Palliative Care
134 Plans" or "clearinghouse" has the same meaning as in s. 408.064.

135 (d) "Compassionate and palliative care plan" or "plan" has
136 the same meaning as in s. 408.064.

137 (e) "Do-not-resuscitate order" means an order issued under
138 s. 401.45(3).

139 (f) "End-stage condition" has the same meaning as in s.
140 765.101.

141 (g) "Examining physician" means a physician licensed under
142 chapter 458 or chapter 459 who examines a patient who wishes, or
143 whose legal representative wishes, to execute a POLST form; who
144 attests to the patient's, or the patient's representative's,
145 ability to make and communicate health care decisions; who signs
146 the POLST form; and who attests to the patient's execution of
147 the POLST form.

148 (h) "Legal representative" means a patient's legally

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149 authorized health care surrogate or proxy as provided in chapter
150 765, a patient's court-appointed guardian as provided in chapter
151 744, an attorney in fact, or a patient's parent if the patient
152 is a minor.

153 (i) "Physician order for life-sustaining treatment" or
154 "POLST" means an order issued pursuant to this section which
155 specifies a patient with an end-stage condition and provides
156 directives for that patient's medical treatment under certain
157 conditions.

158 (2) DUTIES OF THE DEPARTMENT.—The department shall:

159 (a) Adopt rules to implement and administer the POLST
160 program.

161 (b) Prescribe a standardized POLST form pursuant to this
162 section.

163 (c) Provide the POLST form in an electronic format on the
164 department's website and prominently state on the website the
165 requirements for a POLST form under paragraph (3) (a).

166 (d) Consult with health care professional licensing groups,
167 provider advocacy groups, medical ethicists, and other
168 appropriate stakeholders on the development of rules and forms.

169 (e) Collaborate with the agency to develop and maintain the
170 clearinghouse.

171 (f) Ensure that department staff receive ongoing training
172 on the POLST program and the availability of POLST forms.

173 (g) Recommend a statewide, uniform process through which a
174 patient who has executed a POLST form is identified and the
175 health care providers currently treating the patient are
176 provided with contact information for the examining physician
177 who signed the POLST form.

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178 (h) Adopt POLST-related continuing education requirements
179 for health care providers licensed by the department.

180 (i) Develop a process for collecting provider feedback to
181 facilitate the periodic redesign of the POLST form in accordance
182 with current health care best practices.

183 (3) POLST FORM.—

184 (a) Requirements.—A POLST form may not include directives
185 regarding hydration or the preselection of any decisions or
186 directives. A POLST form must be voluntarily executed by the
187 patient or, if the patient is incapacitated, the patient's legal
188 representative, and all directives included in the form must be
189 made by the patient or, if the patient is incapacitated, the
190 patient's legal representative at the time of signing the form.
191 A POLST form is not valid and may not be included in a patient's
192 medical records or submitted to the clearinghouse as provided in
193 this section unless it also meets all of the following
194 requirements:

195 1. Be printed on one or both sides of a single piece of
196 paper in a solid color or on white paper as determined by
197 department rule.

198 2. Include the signatures of the patient and the patient's
199 examining physician or, if the patient is incapacitated, the
200 patient's legal representative and the patient's examining
201 physician, executed after consultation with the patient or the
202 patient's legal representative as appropriate.

203 3. Prominently state that completion of a POLST form is
204 voluntary, that the execution or use of a POLST form may not be
205 required as a condition for treatment, and that a POLST form may
206 not be given effect if the patient is conscious and competent to

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207 make health care decisions.

208 4. Prominently provide in a conspicuous location on the
209 form a space for the patient's examining physician to attest and
210 affirm that, in his or her good faith clinical judgment, at the
211 time the POLST form is completed and signed, the patient has the
212 ability to make and communicate health care decisions or, if the
213 patient is incapacitated, that the patient's legal
214 representative has such ability.

215 5. Provide an expiration date that is within 1 year after
216 the patient or the patient's legal representative signs the form
217 or that is contingent on completion of the course of treatment
218 addressed in the POLST form, whichever occurs first.

219 6. Identify the medical condition or conditions that
220 necessitate the POLST form.

221 (b) Restriction on use of a POLST form.—A POLST form may be
222 completed only by or for a patient determined by the patient's
223 examining physician to have an end-stage condition or a patient
224 who, in the good faith clinical judgment of the examining
225 physician, is suffering from at least one life-limiting medical
226 condition that will likely result in the death of the patient
227 within 1 year.

228 (c) Periodic review of a POLST form.—At a minimum, the
229 patient's physician must review the patient's POLST form with
230 the patient or the patient's legal representative, as
231 appropriate, when the patient:

232 1. Is transferred from one health care setting or level of
233 care to another in accordance with subsection (6);

234 2. Is discharged from a health care setting to return home
235 before the expiration of the POLST form;

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236 3. Experiences a substantial change in his or her condition
237 as determined by the patient's examining physician, in which
238 case the review must occur within 24 hours of the substantial
239 change; or

240 4. Expresses an intent to change his or her treatment
241 preferences.

242 (d) Revocation of a POLST form.—

243 1. A POLST form may be revoked at any time by a patient or,
244 if the patient is incapacitated and the authority to revoke a
245 POLST form has been granted by the patient to his or her legal
246 representative, the representative.

247 2. The execution of a POLST form by a patient and his or
248 her examining physician under this section automatically revokes
249 all POLST forms previously executed by the patient.

250 (e) Review of legal representative's decision on a POLST
251 form.—If a family member of the patient, the health care
252 facility providing services to the patient, or the patient's
253 physician who may reasonably be expected to be affected by the
254 patient's POLST form directives believes the directives are in
255 conflict with the patient's prior expressed desires regarding
256 end-of-life care, he or she or the facility may seek expedited
257 judicial intervention pursuant to the Florida Probate Rules.

258 (f) Conflicting advance directives.—To the extent that
259 directives made on a patient's POLST form conflict with another
260 advance directive of the patient that addresses a substantially
261 similar health care condition or treatment, the document most
262 recently signed by the patient takes precedence. Such directives
263 may include, but are not limited to:

264 a. Living wills.

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265 b. Health care powers of attorney.

266 c. POLST forms for the specific medical condition or
267 treatment.

268 d. Do-not-resuscitate orders.

269 (4) ACTING IN GOOD FAITH; LIMITED IMMUNITY.—

270 (a) An individual acting in good faith as a legal
271 representative under this section is not subject to civil
272 liability or criminal prosecution for executing a POLST form as
273 provided in this section on behalf of a patient who is
274 incapacitated.

275 (b) Any licensee, physician, medical director, emergency
276 medical technician, or paramedic who in good faith complies with
277 a POLST form is not subject to criminal prosecution or civil
278 liability, and has not engaged in negligent or unprofessional
279 conduct as a result of carrying out the directives of a POLST
280 form executed in accordance with this section and rules adopted
281 by the department.

282 (5) POLST FORM FOR A MINOR PATIENT.—If medical orders on a
283 POLST form executed for a minor patient direct that life-
284 sustaining treatment may be withheld from the minor patient, the
285 order must include certification by one health care provider in
286 addition to the physician executing the POLST form that, in
287 their clinical judgement, an order to withhold treatment is in
288 the best interest of the minor patient. A POLST form for a minor
289 patient must be signed by the minor patient's legal
290 representative. The minor patient's physician must certify the
291 basis for the authority of the minor patient's legal
292 representative to execute the POLST form on behalf of the minor
293 patient, including his or her compliance with the relevant

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294 statutory provisions of chapter 765 or chapter 744.

295 (6) PATIENT TRANSFER; POLST FORM REVIEW REQUIRED.—If a
296 patient whose goals and preferences for care have been entered
297 in a valid POLST form is transferred from one health care
298 facility to another, the health care facility initiating the
299 transfer must communicate the existence of the POLST form to the
300 receiving facility before the transfer. Upon the patient's
301 transfer, the treating health care professional at the receiving
302 facility must review the POLST form with the patient or, if the
303 patient is incapacitated, the patient's legal representative.

304 (7) POLST FORM NOT A PREREQUISITE.—A POLST form may not be
305 a prerequisite for receiving medical services or for admission
306 to a facility. Facilities and providers may not require a person
307 to complete, revise, or revoke a POLST form as a condition of
308 receiving services or treatment or as a condition of admission.
309 The execution, revision, or revocation of a POLST form must be a
310 voluntary decision of the patient.

311 (8) INSURANCE NOT AFFECTED.—The presence or absence of a
312 POLST form does not affect, impair, or modify a contract of life
313 or health insurance or annuity to which an individual is a party
314 and may not serve as the basis for any delay in issuing or
315 refusing to issue an annuity or policy of life or health
316 insurance or for an increase or decrease in premiums charged to
317 the individual.

318 (9) INVALIDITY.—A POLST form is invalid if payment or other
319 remuneration was offered or made in exchange for execution of
320 the form.

321 (10) LEGISLATIVE INTENT.—This section may not be construed
322 to condone, authorize, or approve mercy killing or euthanasia.

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323 The Legislature does not intend that this act be construed as
324 permitting any affirmative or deliberate act to end a person's
325 life, except to permit the natural process of dying.

326 Section 2. Section 408.064, Florida Statutes, is created to
327 read:

328 408.064 Clearinghouse for Compassionate and Palliative Care
329 Plans.—The Clearinghouse for Compassionate and Palliative Care
330 Plans is established within the Agency for Health Care
331 Administration.

332 (1) DEFINITIONS.—As used in this section, the term:

333 (a) "Advance directive" has the same meaning as in s.
334 765.101.

335 (b) "Clearinghouse for Compassionate and Palliative Care
336 Plans" or "clearinghouse" means the state's electronic database
337 of compassionate and palliative care plans submitted by
338 residents of this state and managed by the agency pursuant to
339 this section.

340 (c) "Compassionate and palliative care plan" or "plan"
341 means any end-of-life document or a medical directive document
342 recognized by this state and executed by a resident of this
343 state, including, but not limited to, an advance directive, a
344 do-not-resuscitate order, a physician order for life-sustaining
345 treatment, or a health care surrogate designation.

346 (d) "Department" means the Department of Health.

347 (e) "Do-not-resuscitate order" means an order issued
348 pursuant to s. 401.45(3).

349 (f) "End-stage condition" has the same meaning as in s.
350 765.101.

351 (g) "Physician order for life-sustaining treatment" means

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352 an order issued pursuant to s. 401.451 which specifies the care
353 and medical treatment under certain conditions for a patient
354 with an end-stage condition.

355 (2) ELECTRONIC DATABASE.—The agency shall:

356 (a) By January 1, 2017, establish and maintain a reliable
357 and secure database consisting of compassionate and palliative
358 care plans submitted by residents of this state which is
359 accessible to health care providers through a secure electronic
360 portal. The database must allow the electronic submission,
361 storage, indexing, and retrieval of such plans, and allow access
362 to such plans by the treating health care providers of the
363 residents.

364 (b) Develop and maintain a validation system that confirms
365 the identity of the facility, health care provider, or other
366 authorized individual seeking the retrieval of a plan and
367 provides privacy protections that meet all state and federal
368 privacy and security standards for the release of a patient's
369 personal and medical information to third parties.

370 (c) Consult with compassionate and palliative care
371 providers, health care facilities, and residents of this state
372 as necessary and appropriate to facilitate the development and
373 implementation of the database.

374 (d) Publish and disseminate to residents of this state
375 information regarding the clearinghouse.

376 (e) In collaboration with the department, develop and
377 maintain a process for the submission of compassionate and
378 palliative care plans by residents of this state or by health
379 care providers on behalf of and at the direction of their
380 patients for inclusion in the database.

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381 (f) Provide training to health care providers and health
382 care facilities in this state on how to access plans through the
383 database.

384 (3) ALTERNATIVE IMPLEMENTATION.—In lieu of developing the
385 electronic database required by this section, the agency may
386 subscribe to or otherwise participate in a database operated by
387 a public or private clearinghouse if that database meets the
388 requirements of this section. The alternative database may
389 operate nationwide, regionally, or on a statewide basis in this
390 state.

391 Section 3. Subsection (3) of section 400.142, Florida
392 Statutes, is amended to read:

393 400.142 Emergency medication kits; orders not to
394 resuscitate.—

395 (3) Facility staff may withhold or withdraw cardiopulmonary
396 resuscitation if presented with an order not to resuscitate
397 executed pursuant to s. 401.45 or a physician order for life-
398 sustaining treatment (POLST) form executed pursuant to s.
399 401.451 which contains an order not to resuscitate. Facility
400 staff and facilities are not subject to criminal prosecution or
401 civil liability, or considered to have engaged in negligent or
402 unprofessional conduct, for withholding or withdrawing
403 cardiopulmonary resuscitation pursuant to such an order or a
404 POLST form. The absence of an order not to resuscitate executed
405 pursuant to s. 401.45 or a POLST form executed pursuant to s.
406 401.451 does not preclude a physician from withholding or
407 withdrawing cardiopulmonary resuscitation as otherwise allowed
408 ~~permitted~~ by law.

409 Section 4. Section 400.487, Florida Statutes, is amended to

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410 read:

411 400.487 Home health service agreements; physician's,
412 physician assistant's, and advanced registered nurse
413 practitioner's treatment orders; patient assessment;
414 establishment and review of plan of care; provision of services;
415 orders not to resuscitate; physician orders for life-sustaining
416 treatment.-

417 (1) Services provided by a home health agency must be
418 covered by an agreement between the home health agency and the
419 patient or the patient's legal representative specifying the
420 home health services to be provided, the rates or charges for
421 services paid with private funds, and the sources of payment,
422 which may include Medicare, Medicaid, private insurance,
423 personal funds, or a combination thereof. A home health agency
424 providing skilled care must make an assessment of the patient's
425 needs within 48 hours after the start of services.

426 (2) ~~If~~ When required by ~~the provisions of~~ chapter 464; part
427 I, part III, or part V of chapter 468; or chapter 486, the
428 attending physician, physician assistant, or advanced registered
429 nurse practitioner, acting within his or her respective scope of
430 practice, shall establish treatment orders for a patient who is
431 to receive skilled care. The treatment orders must be signed by
432 the physician, physician assistant, or advanced registered nurse
433 practitioner before a claim for payment for the skilled services
434 is submitted by the home health agency. If the claim is
435 submitted to a managed care organization, the treatment orders
436 must be signed within the time allowed under the provider
437 agreement. The treatment orders shall be reviewed, as frequently
438 as the patient's illness requires, by the physician, physician

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439 assistant, or advanced registered nurse practitioner in
440 consultation with the home health agency.

441 (3) A home health agency shall arrange for supervisory
442 visits by a registered nurse to the home of a patient receiving
443 home health aide services in accordance with the patient's
444 direction, approval, and agreement to pay the charge for the
445 visits.

446 (4) Each patient has the right to be informed of and to
447 participate in the planning of his or her care. Each patient
448 must be provided, upon request, a copy of the plan of care
449 established and maintained for that patient by the home health
450 agency.

451 (5) ~~If~~ When nursing services are ordered, the home health
452 agency to which a patient has been admitted for care must
453 provide the initial admission visit, all service evaluation
454 visits, and the discharge visit by a direct employee. Services
455 provided by others under contractual arrangements to a home
456 health agency must be monitored and managed by the admitting
457 home health agency. The admitting home health agency is fully
458 responsible for ensuring that all care provided through its
459 employees or contract staff is delivered in accordance with this
460 part and applicable rules.

461 (6) The skilled care services provided by a home health
462 agency, directly or under contract, must be supervised and
463 coordinated in accordance with the plan of care.

464 (7) Home health agency personnel may withhold or withdraw
465 cardiopulmonary resuscitation if presented with an order not to
466 resuscitate executed pursuant to s. 401.45 or a physician order
467 for life-sustaining treatment (POLST) form executed pursuant to

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468 s. 401.451 which contains an order not to resuscitate. The
469 agency shall adopt rules providing for the implementation of
470 such orders. Home health personnel and agencies are ~~shall~~ not be
471 subject to criminal prosecution or civil liability, and may not
472 ~~not~~ be considered to have engaged in negligent or unprofessional
473 conduct, for withholding or withdrawing cardiopulmonary
474 resuscitation pursuant to such an order or a POLST form and
475 rules adopted by the agency.

476 Section 5. Paragraph (e) of subsection (1) of section
477 400.605, Florida Statutes, is amended to read:

478 400.605 Administration; forms; fees; rules; inspections;
479 fines.—

480 (1) The agency, in consultation with the department, may
481 adopt rules to administer the requirements of part II of chapter
482 408. The department, in consultation with the agency, shall by
483 rule establish minimum standards and procedures for a hospice
484 pursuant to this part. The rules must include:

485 (e) Procedures relating to the implementation of advance
486 ~~advanced~~ directives; physician orders for life-sustaining
487 treatment (POLST) forms executed pursuant to s. 401.451; and do-
488 not-resuscitate orders.

489 Section 6. Subsection (8) of section 400.6095, Florida
490 Statutes, is amended to read:

491 400.6095 Patient admission; assessment; plan of care;
492 discharge; death.—

493 (8) The hospice care team may withhold or withdraw
494 cardiopulmonary resuscitation if presented with an order not to
495 resuscitate executed pursuant to s. 401.45 or a physician order
496 for life-sustaining treatment (POLST) form executed pursuant to

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497 s. 401.451 which contains an order not to resuscitate. The
498 department shall adopt rules providing for the implementation of
499 such orders. Hospice staff are ~~shall~~ not ~~be~~ subject to criminal
500 prosecution or civil liability, and may not ~~nor~~ be considered to
501 have engaged in negligent or unprofessional conduct, for
502 withholding or withdrawing cardiopulmonary resuscitation
503 pursuant to such an order or a POLST form and applicable rules.
504 The absence of an order to resuscitate executed pursuant to s.
505 401.45 or a POLST form executed pursuant to s. 401.451 does not
506 preclude a physician from withholding or withdrawing
507 cardiopulmonary resuscitation as otherwise allowed ~~permitted~~ by
508 law.

509 Section 7. Subsection (4) of section 401.35, Florida
510 Statutes, is amended to read:

511 401.35 Rules.—The department shall adopt rules, including
512 definitions of terms, necessary to carry out the purposes of
513 this part.

514 (4) The rules must establish circumstances and procedures
515 under which emergency medical technicians and paramedics may
516 honor orders by the patient's physician not to resuscitate
517 executed pursuant to s. 401.45 or under a physician order for
518 life-sustaining treatment (POLST) form executed pursuant to s.
519 401.451 which contains an order not to resuscitate and the
520 documentation and reporting requirements for handling such
521 requests.

522 Section 8. Paragraph (a) of subsection (3) of section
523 401.45, Florida Statutes, is amended to read:

524 401.45 Denial of emergency treatment; civil liability.—

525 (3) (a) Resuscitation or other forms of medical intervention

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526 may be withheld or withdrawn from a patient by an emergency
527 medical technician, ~~or paramedic,~~ or other health care
528 professional if he or she is presented with evidence of a
529 physician order for life-sustaining treatment (POLST) form
530 executed pursuant to s. 401.451 which contains an order not to
531 resuscitate or perform other medical intervention, as
532 applicable, or an order not to resuscitate by the patient's
533 physician is presented to the emergency medical technician or
534 paramedic. To be valid, an order not to resuscitate, ~~to be~~
535 ~~valid,~~ must be on the form adopted by rule of the department.
536 The form must be signed by the patient's physician and by the
537 patient or, if the patient is incapacitated, the patient's
538 health care surrogate or proxy as provided in chapter 765,
539 court-appointed guardian as provided in chapter 744, or attorney
540 in fact under a durable power of attorney as provided in chapter
541 709. The court-appointed guardian or attorney in fact must have
542 been delegated authority to make health care decisions on behalf
543 of the patient.

544 Section 9. Subsection (4) of section 429.255, Florida
545 Statutes, is amended to read:

546 429.255 Use of personnel; emergency care.—

547 (4) Facility staff may withhold or withdraw cardiopulmonary
548 resuscitation or the use of an automated external defibrillator
549 if presented with an order not to resuscitate executed pursuant
550 to s. 401.45 or a physician order for life-sustaining treatment
551 (POLST) form executed pursuant to s. 401.451 which contains an
552 order not to resuscitate. The department shall adopt rules
553 providing for the implementation of such orders. Facility staff
554 and facilities are ~~shall~~ not ~~be~~ subject to criminal prosecution

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555 or civil liability, and may not ~~nor~~ be considered to have
556 engaged in negligent or unprofessional conduct, for withholding
557 or withdrawing cardiopulmonary resuscitation or use of an
558 automated external defibrillator pursuant to such an order or a
559 POLST form and rules adopted by the department. The absence of
560 an order not to resuscitate executed pursuant to s. 401.45 or a
561 POLST form executed pursuant to s. 401.451 does not preclude a
562 physician from withholding or withdrawing cardiopulmonary
563 resuscitation or use of an automated external defibrillator as
564 otherwise allowed ~~permitted~~ by law.

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

567 429.73 Rules and standards relating to adult family-care
568 homes.—

569 (3) The department shall adopt rules providing for the
570 implementation of orders not to resuscitate and physician orders
571 for life-sustaining treatment (POLST) forms executed pursuant to
572 s. 401.451. The provider may withhold or withdraw
573 cardiopulmonary resuscitation if presented with an order not to
574 resuscitate executed pursuant to s. 401.45 or a POLST form
575 executed pursuant to s. 401.451 which contains an order not to
576 resuscitate. The provider is ~~shall~~ ~~be~~ subject to criminal
577 prosecution or civil liability, and may not ~~nor~~ be considered to
578 have engaged in negligent or unprofessional conduct, for
579 withholding or withdrawing cardiopulmonary resuscitation
580 pursuant to such orders ~~an order~~ and applicable rules.

581 Section 11. Present subsections (7) and (8) of section
582 456.072, Florida Statutes, are redesignated as subsections (8)
583 and (9), respectively, and a new subsection (7) is added to that

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584 section, to read:

585 456.072 Grounds for discipline; penalties; enforcement.—

586 (7) A licensee may withhold or withdraw cardiopulmonary
587 resuscitation or the use of an automated external defibrillator
588 if presented with an order not to resuscitate executed pursuant
589 to s. 401.45 or a physician order for life-sustaining treatment
590 (POLST) form executed pursuant to s. 401.451 which contains an
591 order not to resuscitate. The department shall adopt rules
592 providing for the implementation of such orders. Licensees are
593 not subject to criminal prosecution or civil liability, and may
594 not be considered to have engaged in negligent or unprofessional
595 conduct, for withholding or withdrawing cardiopulmonary
596 resuscitation or the use of an automated external defibrillator
597 or otherwise carrying out the orders in an order not to
598 resuscitate or a POLST form pursuant to such an order or POLST
599 form and rules adopted by the department. The absence of an
600 order not to resuscitate executed pursuant to s. 401.45 or a
601 POLST form executed pursuant to s. 401.451 does not preclude a
602 licensee from withholding or withdrawing cardiopulmonary
603 resuscitation or the use of an automated external defibrillator
604 or otherwise carrying out medical orders allowed by law.

605 Section 12. Paragraph (c) of subsection (1) of section
606 765.205, Florida Statutes, is amended to read:

607 765.205 Responsibility of the surrogate.—

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

611 (c) Provide written consent using an appropriate form
612 whenever consent is required, including a physician's order not

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613 to resuscitate or a physician order for life-sustaining
614 treatment (POLST) form executed pursuant to s. 401.451.

615 Section 13. This act shall take effect July 1, 2016.