

1 A bill to be entitled
2 An act relating to physician orders for life-
3 sustaining treatment; creating s. 408.064, F.S.;
4 providing definitions; requiring the Agency for Health
5 Care Administration to act as the state clearinghouse
6 for compassionate and palliative care plans and
7 information on such plans; requiring that such plans
8 and information be electronically accessible to
9 specified health care providers; requiring the agency
10 to develop and maintain an electronic database for the
11 submission of a resident's compassionate and
12 palliative care plan, including advance directives,
13 the electronic storage and retrieval of such plans,
14 and access to such plans by specified health care
15 providers; requiring the agency to consult with
16 advisers and experts to develop and implement the
17 database; authorizing the agency to subscribe to or
18 participate in a local or national public or private
19 clearinghouse in lieu of establishing and maintaining
20 an independent database; requiring the agency to
21 publish and disseminate certain information and
22 provide certain training relating to the database;
23 amending ss. 395.1041, 400.142, and 400.487, F.S.;
24 authorizing specified personnel to withhold or
25 withdraw cardiopulmonary resuscitation if a patient
26 has a POLST form that contains such an order;

27 providing immunity from civil and criminal liability
28 to such personnel for such actions; providing that the
29 absence of a POLST form does not preclude a physician
30 from withholding or withdrawing cardiopulmonary
31 resuscitation; amending s. 400.605, F.S.; requiring
32 the Department of Elderly Affairs, in consultation
33 with the agency, to adopt by rule procedures for the
34 implementation of POLST forms in hospice care;
35 amending s. 400.6095, F.S.; authorizing a hospice care
36 team to withhold or withdraw cardiopulmonary
37 resuscitation if a patient has a POLST form that
38 contains such an order; providing immunity from civil
39 and criminal liability to a provider for such actions;
40 providing that the absence of a POLST form does not
41 preclude a physician from withholding or withdrawing
42 cardiopulmonary resuscitation; amending s. 401.35,
43 F.S.; requiring the Department of Health to establish
44 circumstances and procedures for honoring a POLST
45 form; amending s. 401.45, F.S.; authorizing emergency
46 medical transportation providers to withhold or
47 withdraw cardiopulmonary resuscitation or other
48 medical interventions if a patient has a POLST form
49 that contains such an order; creating s. 401.455,
50 F.S.; requiring the Department of Health to develop,
51 and adopt by rule, a physician orders for life-
52 sustaining treatment (POLST) form; providing

53 requirements for the POLST form; requiring the
54 signature and attestation of a physician on a POLST
55 form; providing requirements for a POLST form to be
56 valid; providing for compliance with an out-of-state
57 POLST form; prohibiting a POLST form from being
58 required as a condition for treatment; requiring the
59 review of a POLST form in certain circumstances;
60 providing for transferability; providing procedures in
61 cases of conflicting directives; providing
62 requirements for execution of a POLST for minors;
63 providing for effect of a POLST on insurance policies
64 and annuities; providing for the revocation of a POLST
65 form; providing for construction; amending s. 429.255,
66 F.S.; authorizing assisted living facility personnel
67 to withhold or withdraw cardiopulmonary resuscitation
68 if a patient has a POLST form that contains such an
69 order; providing immunity from civil and criminal
70 liability to facility staff and facilities for such
71 actions; providing that the absence of a POLST form
72 does not preclude a physician from withholding or
73 withdrawing cardiopulmonary resuscitation; amending s.
74 429.73, F.S.; requiring the Department of Elderly
75 Affairs to adopt rules for the implementation of POLST
76 forms in adult family-care homes; authorizing a
77 provider of such home to withhold or withdraw
78 cardiopulmonary resuscitation if a patient has a POLST

79 form that contains such an order; providing immunity
 80 from civil and criminal liability to a provider for
 81 such actions; amending s. 456.072, F.S.; providing
 82 that a licensee may withhold or withdraw
 83 cardiopulmonary resuscitation or the use of an
 84 external defibrillator if presented with an order not
 85 to resuscitate or a POLST form that contains an order
 86 not to resuscitate; requiring the Department of Health
 87 to adopt rules providing for the implementation of
 88 such orders; providing immunity to licensees for
 89 withholding or withdrawing cardiopulmonary
 90 resuscitation or the use of an automated defibrillator
 91 pursuant to such orders; amending s. 765.205, F.S.;
 92 requiring a health care surrogate to provide written
 93 consent for a POLST form under certain circumstances;
 94 providing an effective date.

95

96 Be It Enacted by the Legislature of the State of Florida:

97

98 Section 1. Section 408.064, Florida Statutes, is created
 99 to read:

100 408.064 Clearinghouse for compassionate and palliative
 101 care plans.-

102 (1) DEFINITIONS.-As used in this section, the term:

103 (a) "Advance directive" has the same meaning as in s.
 104 765.101.

105 (b) "Compassionate and palliative care plan" or "plan"
106 means an end-of-life document or a medical directive document
107 recognized by this state and executed by a resident of this
108 state, including, but not limited to, an advance directive, do-
109 not-resuscitate order, physician orders for life-sustaining
110 treatment, or health care surrogate designation.

111 (c) "Department" means the Department of Health.

112 (d) "Do-not-resuscitate order" means an order issued
113 pursuant to s. 401.45(3).

114 (e) "End-stage condition" has the same meaning as in s.
115 765.101.

116 (f) "Physician orders for life-sustaining treatment" or
117 "POLST" means an order issued pursuant to s. 401.455.

118 (2) INFORMATION CLEARINGHOUSE AND ESTABLISHMENT OF
119 ELECTRONIC DATABASE.—The agency shall act as a clearinghouse of
120 information on compassionate and palliative care plans, which
121 must be accessible to health care providers. The agency shall
122 develop and maintain as part of the clearinghouse a reliable and
123 secure electronic database that allows the submission, storage,
124 indexing, and retrieval of plans submitted by residents of this
125 state, which plans may be accessed by a resident's treating
126 health care provider. The agency shall consult with
127 compassionate and palliative care providers, health care
128 facilities, and residents of this state as necessary and
129 appropriate to facilitate the development and implementation of
130 the database. The agency may subscribe to or otherwise

131 participate in a local or national public or private
 132 clearinghouse to meet the requirements of this subsection. The
 133 agency shall publish and disseminate to residents of this state
 134 information regarding its role as a clearinghouse and the
 135 availability of the database. The agency shall also provide
 136 training to health care providers and health care facilities in
 137 this state regarding how to access plans through the database.

138 Section 2. Paragraph (1) of subsection (3) of section
 139 395.1041, Florida Statutes, is amended to read:

140 395.1041 Access to emergency services and care.—

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

143 (1) Hospital 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 orders
 146 for life-sustaining treatment (POLST) form executed pursuant to
 147 s. 401.455 which contains an order not to resuscitate. Facility
 148 staff and facilities are ~~shall~~ not ~~be~~ subject to criminal
 149 prosecution or civil liability, and may not ~~nor~~ be considered to
 150 have engaged in negligent or unprofessional conduct, for
 151 withholding or withdrawing cardiopulmonary resuscitation
 152 pursuant to such an order or a POLST form. The absence of an
 153 order not to resuscitate executed pursuant to s. 401.45 or a
 154 POLST form executed pursuant to s. 401.455 does not preclude a
 155 physician from withholding or withdrawing cardiopulmonary
 156 resuscitation as otherwise allowed ~~permitted~~ by law.

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

159 400.142 Emergency medication kits; orders not to
 160 resuscitate.—

161 (3) Facility staff may withhold or withdraw
 162 cardiopulmonary resuscitation if presented with an order not to
 163 resuscitate executed pursuant to s. 401.45 or a physician orders
 164 for life-sustaining treatment (POLST) form executed pursuant to
 165 s. 401.455 which contains an order not to resuscitate. Facility
 166 staff and facilities are not subject to criminal prosecution or
 167 civil liability, and may not be ~~or~~ considered to have engaged in
 168 negligent or unprofessional conduct, for withholding or
 169 withdrawing cardiopulmonary resuscitation pursuant to such an
 170 order or a POLST form. The absence of an order not to
 171 resuscitate executed pursuant to s. 401.45 or a POLST form
 172 executed pursuant to s. 401.455 does not preclude a physician
 173 from withholding or withdrawing cardiopulmonary resuscitation as
 174 otherwise allowed ~~permitted~~ by law.

175 Section 4. Section 400.487, Florida Statutes, is amended
 176 to read:

177 400.487 Home health service agreements; physician's,
 178 physician assistant's, and advanced registered nurse
 179 practitioner's treatment orders; patient assessment;
 180 establishment and review of plan of care; provision of services;
 181 orders not to resuscitate; physician orders for life-sustaining
 182 treatment.—

183 (1) Services provided by a home health agency must be
184 covered by an agreement between the home health agency and the
185 patient or the patient's legal representative specifying the
186 home health services to be provided, the rates or charges for
187 services paid with private funds, and the sources of payment,
188 which may include Medicare, Medicaid, private insurance,
189 personal funds, or a combination thereof. A home health agency
190 providing skilled care must make an assessment of the patient's
191 needs within 48 hours after the start of services.

192 (2) If ~~When~~ required by ~~the provisions of~~ chapter 464;
193 part I, part III, or part V of chapter 468; or chapter 486, the
194 attending physician, physician assistant, or advanced registered
195 nurse practitioner, acting within his or her respective scope of
196 practice, shall establish treatment orders for a patient who is
197 to receive skilled care. The treatment orders must be signed by
198 the physician, physician assistant, or advanced registered nurse
199 practitioner before a claim for payment for the skilled services
200 is submitted by the home health agency. If the claim is
201 submitted to a managed care organization, the treatment orders
202 must be signed within the time allowed under the provider
203 agreement. The treatment orders shall be reviewed, as frequently
204 as the patient's illness requires, by the physician, physician
205 assistant, or advanced registered nurse practitioner in
206 consultation with the home health agency.

207 (3) A home health agency shall arrange for supervisory
208 visits by a registered nurse to the home of a patient receiving

209 home health aide services in accordance with the patient's
210 direction, approval, and agreement to pay the charge for the
211 visits.

212 (4) Each patient has the right to be informed of and to
213 participate in the planning of his or her care. Each patient
214 must be provided, upon request, a copy of the plan of care
215 established and maintained for that patient by the home health
216 agency.

217 (5) If ~~When~~ nursing services are ordered, the home health
218 agency to which a patient has been admitted for care must
219 provide the initial admission visit, all service evaluation
220 visits, and the discharge visit by a direct employee. Services
221 provided by others under contractual arrangements to a home
222 health agency must be monitored and managed by the admitting
223 home health agency. The admitting home health agency is fully
224 responsible for ensuring that all care provided through its
225 employees or contract staff is delivered in accordance with this
226 part and applicable rules.

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

230 (7) Home health agency personnel may withhold or withdraw
231 cardiopulmonary resuscitation if presented with an order not to
232 resuscitate executed pursuant to s. 401.45 or a physician orders
233 for life-sustaining treatment (POLST) form executed pursuant to
234 s. 401.455 which contains an order not to resuscitate. The

235 agency shall adopt rules providing for the implementation of
 236 such orders. Home health personnel and agencies are ~~shall~~ not be
 237 subject to criminal prosecution or civil liability, and may not
 238 ~~not~~ be considered to have engaged in negligent or unprofessional
 239 conduct, for withholding or withdrawing cardiopulmonary
 240 resuscitation pursuant to such an order or a POLST form and
 241 rules adopted by the agency.

242 Section 5. Paragraph (e) of subsection (1) of section
 243 400.605, Florida Statutes, is amended to read:

244 400.605 Administration; forms; fees; rules; inspections;
 245 fines.—

246 (1) The agency, in consultation with the department, may
 247 adopt rules to administer the requirements of part II of chapter
 248 408. The department, in consultation with the agency, shall by
 249 rule establish minimum standards and procedures for a hospice
 250 pursuant to this part. The rules must include:

251 (e) Procedures relating to the implementation of advance
 252 ~~advanced~~ directives; physician orders for life-sustaining
 253 treatment (POLST) forms executed pursuant to s. 401.455; and an
 254 order not to resuscitate executed pursuant to s. 401.45 ~~and de-~~
 255 ~~not resuscitate orders.~~

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

258 400.6095 Patient admission; assessment; plan of care;
 259 discharge; death.—

260 (8) The hospice care team may withhold or withdraw

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261 cardiopulmonary resuscitation if presented with an order not to
262 resuscitate executed pursuant to s. 401.45 or a physician orders
263 for life-sustaining treatment (POLST) form executed pursuant to
264 s. 401.455 which contains an order not to resuscitate. The
265 department shall adopt rules providing for the implementation of
266 such orders. Hospice staff are ~~shall~~ not ~~be~~ subject to criminal
267 prosecution or civil liability, and may not ~~nor~~ be considered to
268 have engaged in negligent or unprofessional conduct, for
269 withholding or withdrawing cardiopulmonary resuscitation
270 pursuant to such an order or a POLST form and applicable rules.
271 The absence of an order to resuscitate executed pursuant to s.
272 401.45 or a POLST form executed pursuant to s. 401.455 does not
273 preclude a physician from withholding or withdrawing
274 cardiopulmonary resuscitation as otherwise allowed ~~permitted~~ by
275 law.

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

278 401.35 Rules.—The department shall adopt rules, including
279 definitions of terms, necessary to carry out the purposes of
280 this part.

281 (4) The rules must establish circumstances and procedures
282 under which emergency medical technicians and paramedics may
283 honor orders by the patient's physician not to resuscitate
284 executed pursuant to s. 401.45 or a physician orders for life-
285 sustaining treatment (POLST) form executed pursuant to s.
286 401.455 which contains an order not to resuscitate and the

287 documentation and reporting requirements for handling such
 288 requests.

289 Section 8. Paragraph (a) of subsection (3) of section
 290 401.45, Florida Statutes, is amended to read:

291 401.45 Denial of emergency treatment; civil liability.—

292 (3) (a) Resuscitation or other forms of medical
 293 intervention may be withheld or withdrawn from a patient by an
 294 emergency medical technician, ~~or~~ paramedic, or other health care
 295 professional if he or she is presented with ~~if~~ evidence of a
 296 physician orders for life-sustaining treatment (POLST) form as
 297 defined in s. 401.455 or an order not to resuscitate executed
 298 pursuant to s. 401.45 by the patient's physician ~~is presented to~~
 299 ~~the emergency medical technician or paramedic.~~ To be valid, an
 300 order not to resuscitate, ~~to be valid,~~ must be on the form
 301 adopted by rule of the department. The form must be signed by
 302 the patient's physician and by the patient or, if the patient is
 303 incapacitated, the patient's health care surrogate or proxy as
 304 provided in chapter 765, court-appointed guardian as provided in
 305 chapter 744, or attorney in fact under a durable power of
 306 attorney as provided in chapter 709. The court-appointed
 307 guardian or attorney in fact must have been delegated authority
 308 to make health care decisions on behalf of the patient.

309 Section 9. Section 401.455, Florida Statutes, is created
 310 to read:

311 401.455 Physician orders for life-sustaining treatment.—

312 (1) POLST FORM.—Physician orders for life-sustaining

313 treatment (POLST) must be on a form adopted by department rule
314 and executed as required by this section.

315 (a) A POLST form may be used only by or for a patient
316 determined by the patient's physician to have an end-stage
317 condition as defined in s. 765.101(4) or a patient who, in the
318 good faith clinical judgment of his or her physician, is
319 suffering from at least one terminal medical condition that will
320 likely result in his or her death within 1 year.

321 (b) A POLST form must be signed by the patient's physician
322 and must contain a certification by the physician indicating
323 that the physician consulted with the patient signing the POLST
324 form, or, if the patient is incapable of making health care
325 decisions for herself or himself or is incapacitated, with the
326 patient's health care surrogate, proxy, court-appointed
327 guardian, or attorney in fact who is permitted to execute a
328 POLST form on behalf of the patient as provided in paragraph
329 (c), about the use of and the effect of the removal or refusal
330 of life-sustaining medical treatment. The physician who signs
331 the POLST form must indicate the medical circumstance that
332 justifies the execution of the POLST.

333 (c) A POLST form must also be signed by the patient. If
334 the patient is incapable of making health care decisions for
335 herself or himself or is incapacitated, the POLST form must be
336 signed by the patient's health care surrogate or proxy pursuant
337 to chapter 765. If the patient does not have a health care
338 surrogate or proxy, the POLST form must be signed by the

339 patient's court-appointed guardian pursuant to chapter 744. If
340 the patient does not have a court-appointed guardian, the POLST
341 form must be signed by the patient's attorney in fact under a
342 durable power of attorney pursuant to chapter 709. If a POLST
343 form is signed by a health care surrogate, proxy, court-
344 appointed guardian, or attorney in fact, the patient's physician
345 must certify the basis for the authority of the appropriate
346 person to execute the POLST form on behalf of the patient,
347 including compliance with the relevant provisions of chapter
348 765, chapter 744, or chapter 709.

349 (d) A POLST form subsequently executed by the patient
350 shall revoke any prior POLST form executed by the patient.

351 (e) A patient's health care surrogate, proxy, court-
352 appointed guardian, or attorney in fact permitted to execute a
353 POLST form on behalf of a patient as provided in paragraph (b)
354 may subsequently revoke a POLST form for the patient, unless a
355 valid advance directive or prior POLST form executed by the
356 patient expressly forbids changes by a surrogate, proxy, court-
357 appointed guardian, or attorney in fact.

358 (f) A person acting in good faith as health care
359 surrogate, proxy, court-appointed guardian, or attorney in fact
360 under this section is not subject to civil liability or criminal
361 prosecution for executing a POLST form as provided in paragraph
362 (b) on behalf of a patient who lacks the capacity to make health
363 care decisions for himself or herself or is incapacitated.

364 (g) The patient's family, the health care facility, or the

365 attending physician, or any other interested person who may
366 reasonably be expected to be directly affected by the decisions
367 indicated on a POLST form executed by a health care surrogate,
368 proxy, court-appointed guardian, or attorney in fact on behalf
369 of the patient as provided in paragraph (b) may seek expedited
370 judicial intervention pursuant to Rule 5.900 of the Florida
371 Probate Rules if that person believes:

372 1. The decisions of the health care surrogate, proxy,
373 court-appointed guardian, or attorney in fact are not in accord
374 with the patient's known desires or chapter 765, chapter 744, or
375 chapter 709;

376 2. The advance directive or POLST form regarding the
377 patient's wishes regarding life-sustaining treatment is
378 ambiguous or the patient has changed his or her mind after
379 execution of the advance directive or POLST form;

380 3. The health care surrogate, proxy, court-appointed
381 guardian, or attorney in fact was improperly designated or
382 appointed, or the designation of the health care surrogate,
383 proxy, court-appointed guardian, or attorney in fact is no
384 longer effective or has been removed;

385 4. The health care surrogate, proxy, court-appointed
386 guardian, or attorney in fact has failed to discharge his or her
387 duties, or incapacity or illness renders him or her incapable of
388 discharging his or her duties;

389 5. The health care surrogate, proxy, court-appointed
390 guardian, or attorney in fact has abused his or her powers; or

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

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

394 (a) Consult with health care professional licensing
395 groups, provider advocacy groups, patient advocacy groups,
396 medical ethicists, and other appropriate stakeholders when
397 formulating rules that prescribe the contents of and contain
398 protocols for the implementation of a standardized POLST form.
399 The POLST form shall be available in electronic format on the
400 department website for downloading by patients and health care
401 providers. To the extent possible, the standardized POLST form
402 and protocols shall be used consistently across all health care
403 settings and reflect nationally recognized standards for end-of-
404 life care. The POLST form shall include:

405 1. The patient's directives concerning:

406 a. The administration of life-sustaining treatment.

407 b. The administration of measures to relieve pain and
408 suffering through the use of medication by any route, wound
409 care, or related measures.

410 c. Transfer to a setting able to provide comfort or
411 palliative care, such as a hospice.

412 2. The dated signature of the patient or, if applicable,
413 the dated signature of the patient's health care surrogate,
414 proxy, court-appointed guardian, or attorney in fact.

415 3. The name, address, and telephone number of the
416 patient's primary health care provider.

417 4. The dated signature of the primary health care provider
418 entering medical orders on the POLST form, a certification by
419 the signing provider that he or she discussed the patient's care
420 goals and preferences as reflected on the POLST form with the
421 patient or the patient's health care surrogate, proxy, court-
422 appointed guardian, or attorney in fact.

423 5. A statement printed in a conspicuous location that if
424 the patient has the capacity to make informed decisions about
425 health care options, the patient's presently expressed health
426 care treatment decisions shall determine the patient's
427 treatment, even if those decisions conflict the directives
428 indicated on the POLST form. Decisions to supply or withhold
429 hydration may only be made in the context of a patient's actual
430 condition at the time of such a decision. Therefore, the POLST
431 form may not include a directive regarding hydration.

432 (b) Recommend a uniform method for identifying persons who
433 have executed a POLST form and providing health care providers
434 with contact information for the person's primary health care
435 provider.

436 (c) Oversee the education of health care providers
437 regarding the POLST form.

438 (d) Develop a process for collecting feedback from health
439 care providers to enable periodic redesign of the POLST form in
440 accordance with current health care best practices.

441 (e) Adopt and enforce all rules necessary to implement
442 this section.

443 (3) DUTY TO COMPLY WITH POLST FORM AND OUT-OF-STATE POLST
444 DIRECTIVES; LIMITED IMMUNITY.—

445 (a) Notwithstanding notice of revocation or termination of
446 a POLST form, emergency medical service personnel, health care
447 providers, physicians, and health care facilities may comply
448 with the orders on a person's POLST form without regard to
449 whether the provider ordering the POLST is on the medical staff
450 of the treating health care facility. If the provider ordering
451 the POLST is not on the medical staff of the treating health
452 care facility, the POLST form shall be reviewed by the treating
453 health care professional at the receiving facility with the
454 patient, or the patient's health care surrogate, proxy, court-
455 appointed guardian, or attorney in fact, and made into a medical
456 order at the receiving facility.

457 (b) Notwithstanding notice of revocation or termination of
458 a POLST form, a POLST form from another state is presumed valid,
459 shall be effective in this state, and shall be complied with to
460 the same extent as a POLST form executed in this state.

461 (c) Any licensee, physician, medical director, or
462 emergency medical technician or paramedic who acts in good faith
463 on a POLST is not subject to criminal prosecution or civil
464 liability, and has not engaged in negligent or unprofessional
465 conduct, as a result of carrying out the directives of the
466 POLST.

467 (4) PATIENT TRANSFER; POLST TRANSFERABILITY.—
468 Notwithstanding notice of revocation or termination of a POLST

469 form, if a patient whose goals and preferences for care have
470 been entered on a POLST form is transferred from one health care
471 facility to another health care facility, the health care
472 facility initiating the transfer shall communicate the existence
473 of the POLST form to the receiving facility before the patient
474 is transferred. The POLST form shall accompany the patient to
475 the receiving facility and shall remain in effect for the
476 duration of the patient's stay at such facility. The POLST form
477 shall be reviewed by the treating health care professional at
478 the receiving facility with the patient, or the patient's health
479 care surrogate, proxy, court-appointed guardian, or attorney in
480 fact, and made into a medical order at the receiving facility.

481 (5) CONFLICTS WITH OTHER ADVANCE DIRECTIVES.—To the extent
482 that the orders on a POLST form conflict with an advance
483 directive made under chapter 765, the document most recently
484 signed by the patient takes precedence, unless the patient lacks
485 the capacity to make such medical decisions and the patient's
486 health care surrogate, proxy, court-appointed guardian, or
487 attorney in fact believes it is consistent with the patient's
488 wishes to alter the most recently signed document, in which case
489 the patient's health care surrogate, proxy, court-appointed
490 guardian, or attorney-in-fact may amend or revoke a prior POLST
491 form or execute a new POLST form, unless a valid advance
492 directive or prior POLST form executed by the patient expressly
493 forbids changes by a health care surrogate, proxy, court-
494 appointed guardian, or attorney in fact.

495 (6) POLST FOR MINORS.—If medical orders on a POLST form
496 relate to a minor and direct that life-sustaining treatment be
497 withheld from the minor, the order shall include a certification
498 by two health care providers in addition to the physician
499 executing the POLST that, in their clinical judgment, an order
500 to withhold treatment is in the best interests of the minor. Any
501 POLST form for a minor must also be signed by the minor's proxy,
502 natural guardian, or court-appointed guardian, and the minor's
503 physician must certify the basis for the authority of the
504 appropriate person to execute the POLST form on behalf of the
505 minor, including compliance with the relevant statutory
506 provisions of chapter 765 or chapter 744.

507 (7) POLST FORM; VOLUNTARY OPTION.—A facility or provider
508 may not require a person to complete a POLST form as a
509 prerequisite or condition for the provision of services or
510 treatment. The execution of a POLST form must be a voluntary
511 decision.

512 (8) POLST FORM; EFFECT ON LIFE OR HEALTH INSURANCE.—A
513 person's execution of or refusal or failure to execute a POLST
514 form does not affect, impair, or modify a life insurance or
515 health insurance policy or an annuity to which the person is a
516 party, may not be the basis for any delay in issuing or refusing
517 to issue a life insurance or health insurance policy or an
518 annuity, and may not be the basis for an increase or decrease in
519 the premium charged to the person for a life insurance or health
520 insurance policy or an annuity.

521 (9) REVOCATION OF A POLST FORM.—

522 (a) A POLST form may be revoked at any time by a patient
523 deemed to have the capacity to make his or her own health care
524 decisions:

525 1. By means of a signed and dated written document;

526 2. By means of the physical cancellation or destruction of
527 the POLST form by the patient or by another person in the
528 patient's presence and at the patient's direction;

529 3. By means of an oral expression of intent to revoke; or

530 4. By means of a subsequently executed POLST or advance
531 directive that is materially different from a previously
532 executed POLST or advance directive.

533 (b) A health care surrogate, proxy, court-appointed
534 guardian, or attorney in fact who created a POLST form for a
535 patient may revoke all or part of the POLST form at any time in
536 a written document signed and dated by the health care
537 surrogate, proxy, court-appointed guardian, or attorney in fact.

538 (c) An amendment to or revocation of a POLST shall be
539 promptly communicated to the patient's primary health care
540 provider, primary care physician, and any health care facility
541 at which the patient is receiving care. A health care
542 professional, health care surrogate, proxy, court-appointed
543 guardian, or attorney-in-fact who is informed of an amendment to
544 or revocation of a POLST shall promptly communicate such fact to
545 the patient's primary health care provider, the patient's
546 primary care physician, the current supervising health care

547 professional, and any health care facility at which the patient
 548 is receiving care.

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

550 (10) EFFECT OF SECTION ON EUTHANASIA; MERCY KILLING;
 551 CONSTRUCTION.—This section shall not be construed as condoning,
 552 authorizing, or approving euthanasia or mercy killing. In
 553 addition, the Legislature does not intend that this section be
 554 construed as permitting any affirmative or deliberate act to end
 555 a person's life, except to permit natural death as provided by
 556 this section.

557 Section 10. Subsection (4) of section 429.255, Florida
 558 Statutes, is amended to read:

559 429.255 Use of personnel; emergency care.—

560 (4) Facility staff may withhold or withdraw
 561 cardiopulmonary resuscitation or the use of an automated
 562 external defibrillator if presented with an order not to
 563 resuscitate executed pursuant to s. 401.45 or a physician orders
 564 for life-sustaining treatment (POLST) form executed pursuant to
 565 s. 401.455 which contains an order not to resuscitate. The
 566 department shall adopt rules providing for the implementation of
 567 such orders. Facility staff and facilities are ~~shall~~ ~~be~~
 568 subject to criminal prosecution or civil liability, and may not
 569 ~~not~~ be considered to have engaged in negligent or unprofessional
 570 conduct, for withholding or withdrawing cardiopulmonary
 571 resuscitation or use of an automated external defibrillator
 572 pursuant to such orders ~~an order~~ and rules adopted by the

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573 department. The absence of an order to resuscitate executed
574 pursuant to s. 401.45 or a POLST form executed pursuant to s.
575 401.455 does not preclude a physician from withholding or
576 withdrawing cardiopulmonary resuscitation or use of an automated
577 external defibrillator as otherwise allowed ~~permitted~~ by law.

578 Section 11. Subsection (3) of section 429.73, Florida
579 Statutes, is amended to read:

580 429.73 Rules and standards relating to adult family-care
581 homes.—

582 (3) The department shall adopt rules providing for the
583 implementation of orders not to resuscitate and physician orders
584 for life-sustaining treatment (POLST) forms executed pursuant to
585 s. 401.455. The provider may withhold or withdraw
586 cardiopulmonary resuscitation if presented with an order not to
587 resuscitate executed pursuant to s. 401.45 or a POLST form
588 executed pursuant to s. 401.455 which contains an order not to
589 resuscitate. The provider is ~~shall~~ not ~~be~~ subject to criminal
590 prosecution or civil liability, and may not ~~nor~~ be considered to
591 have engaged in negligent or unprofessional conduct, for
592 withholding or withdrawing cardiopulmonary resuscitation
593 pursuant to such orders ~~an order~~ and applicable rules.

594 Section 12. Subsections (7) and (8) of section 456.072,
595 Florida Statutes, are renumbered as subsections (8) and (9),
596 respectively, and a new subsection (7) is added to that section
597 to read:

598 456.072 Grounds for discipline; penalties; enforcement.—

599 (7) A licensee may withhold or withdraw cardiopulmonary
600 resuscitation or the use of an automated external defibrillator
601 if presented with an order not to resuscitate executed pursuant
602 to s. 401.45 or a physician orders for life-sustaining treatment
603 (POLST) form executed pursuant to s. 401.455 which contains an
604 order not to resuscitate. The department shall adopt rules
605 providing for the implementation of such orders. Licensees are
606 not subject to criminal prosecution or civil liability, and may
607 not be considered to have engaged in negligent or unprofessional
608 conduct, for withholding or withdrawing cardiopulmonary
609 resuscitation or the use of an automated external defibrillator,
610 or otherwise carrying out the orders in an order not to
611 resuscitate or a POLST form, pursuant to such orders and rules
612 adopted by the department. The absence of an order not to
613 resuscitate executed pursuant to s. 401.45 or a POLST form
614 executed pursuant to s. 401.455 does not preclude a licensee
615 from withholding or withdrawing cardiopulmonary resuscitation or
616 the use of an automated external defibrillator or otherwise
617 carrying out medical orders allowed by law.

618 Section 13. Paragraph (c) of subsection (1) of section
619 765.205, Florida Statutes, is amended to read:

620 765.205 Responsibility of the surrogate.—

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

624 (c) Provide written consent using an appropriate form

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625 whenever consent is required, including a physician's order not
626 to resuscitate or a physician orders for life-sustaining
627 treatment (POLST) form executed pursuant to s. 401.455.

628 Section 14. This act shall take effect January 1, 2017.