

By 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; providing duties of the
7 department; providing requirements for POLST forms;
8 providing a restriction on the use of POLST forms;
9 requiring periodic review of POLST forms; providing
10 for the revocation of POLST forms; authorizing
11 expedited judicial intervention under certain
12 circumstances; specifying which document controls when
13 directives in POLST forms conflict with other advance
14 directives; providing limited immunity for legal
15 representatives and specified health care providers
16 acting in good faith in reliance on POLST forms;
17 imposing additional requirements on POLST forms
18 executed on behalf of minor patients under certain
19 circumstances; requiring review of POLST forms upon
20 the transfers of patients; prohibiting POLST forms
21 from being required as a condition for treatment or
22 admission to health care facilities; providing that
23 execution of POLST forms does not affect, impair, or
24 modify certain insurance contracts; providing for the
25 invalidity of POLST forms executed in return for
26 payment or other remuneration; providing construction;
27 creating s. 408.064, F.S.; defining terms; requiring
28 the Agency for Health Care Administration to establish
29 and maintain a database of compassionate and
30 palliative care plans by a specified date; providing
31 duties of the agency; authorizing the agency to
32 subscribe to or participate in a public or private

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33 clearinghouse in lieu of establishing and maintaining
34 an independent database; amending ss. 400.142 and
35 400.487, F.S.; authorizing specified personnel to
36 withhold or withdraw cardiopulmonary resuscitation if
37 a patient has a POLST form that contains an order not
38 to resuscitate; providing immunity from criminal
39 prosecution or civil liability to such personnel for
40 such actions; providing that the absence of a POLST
41 form does not preclude physicians from withholding or
42 withdrawing cardiopulmonary resuscitation; amending s.
43 400.605, F.S.; requiring the Department of Elderly
44 Affairs, in consultation with the agency, to adopt by
45 rule procedures for the implementation of POLST forms
46 in hospice care; amending s. 400.6095; F.S.;

47 authorizing hospice care teams to withhold or withdraw
48 cardiopulmonary resuscitation if presented with POLST
49 forms that contain an order not to resuscitate;
50 providing immunity from criminal prosecution or civil
51 liability to hospice staff for such actions; providing
52 that the absence of a POLST form does not preclude
53 physicians from withholding or withdrawing
54 cardiopulmonary resuscitation; amending s. 401.35,
55 F.S.; requiring the Department of Health to establish
56 circumstances and procedures for honoring certain
57 POLST forms; amending s. 401.45, F.S.; authorizing
58 emergency medical transportation providers to withhold
59 or withdraw cardiopulmonary resuscitation or other
60 medical interventions if presented with POLST forms
61 that contain an order not to resuscitate; amending s.

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62 429.255, F.S.; authorizing assisted living facility
63 personnel to withhold or withdraw cardiopulmonary
64 resuscitation if presented with POLST forms that
65 contain an order not to resuscitate; providing
66 immunity from criminal prosecution or civil liability
67 to facility staff and facilities for such actions;
68 providing that the absence of a POLST form does not
69 preclude physicians from withholding or withdrawing
70 cardiopulmonary resuscitation; amending s. 429.73,
71 F.S.; requiring the Department of Elderly Affairs to
72 adopt rules for the implementation of POLST forms in
73 adult family-care homes; authorizing providers of such
74 homes to withhold or withdraw cardiopulmonary
75 resuscitation if presented with POLST forms that
76 contain an order not to resuscitate; providing
77 immunity from criminal prosecution or civil liability
78 to providers for such actions; amending s. 456.072,
79 F.S.; authorizing certain licensees to withhold or
80 withdraw cardiopulmonary resuscitation or the use of
81 an external defibrillator if presented with orders not
82 to resuscitate or POLST forms that contain an order
83 not to resuscitate; requiring the Department of Health
84 to adopt rules providing for the implementation of
85 such orders; providing immunity from criminal
86 prosecution or civil liability to licensees for
87 withholding or withdrawing cardiopulmonary
88 resuscitation or the use of an automated defibrillator
89 or for carrying out specified orders under certain
90 circumstances; amending s. 765.205, F.S.; requiring

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91 health care surrogates to provide written consent for
92 POLST forms under certain circumstances; providing an
93 effective date.

94

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

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97 Section 1. Section 401.451, Florida Statutes, is created to
98 read:

99 401.451 Physician Orders for Life-Sustaining Treatment
100 Program.—The Physician Orders for Life-Sustaining Treatment
101 Program is established within the Department of Health to
102 implement and administer the development and use of physician
103 orders for life-sustaining treatment consistent with this
104 section and to collaborate with the Agency for Health Care
105 Administration in the implementation and operation of the
106 Clearinghouse for Compassionate and Palliative Care Plans
107 created under s. 408.064.

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

109 (a) "Advance directive" has the same meaning as provided in
110 s. 765.101.

111 (b) "Agency" means the Agency for Health Care
112 Administration.

113 (c) "Clearinghouse for Compassionate and Palliative Care
114 Plans" or "clearinghouse" has the same meaning as provided in s.
115 408.064.

116 (d) "End-stage condition" has the same meaning as provided
117 in s. 765.101.

118 (e) "Examining physician" means a physician who examines a
119 patient who wishes, or whose legal representative wishes, to

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120 execute a POLST form; who attests to the ability of the patient
121 or the patient's legal representative to make and communicate
122 health care decisions; who signs the POLST form; and who attests
123 to the execution of the POLST form by the patient or by the
124 patient's legal representative.

125 (f) "Health care provider" has the same meaning as provided
126 in s. 408.07.

127 (g) "Legal representative" means a patient's legally
128 authorized health care surrogate or proxy as provided in chapter
129 765, a patient's court-appointed guardian as provided in chapter
130 744 who has been delegated authority to make health care
131 decisions on behalf of the patient, an attorney in fact under a
132 durable power of attorney as provided in chapter 709 who has
133 been delegated authority to make health care decisions on behalf
134 of the patient, or a patient's parent if the patient is under 18
135 years of age.

136 (h) "Order not to resuscitate" means an order issued under
137 s. 401.45(3).

138 (i) "Physician order for life-sustaining treatment" or
139 "POLST" means an order issued pursuant to this section which
140 specifies a patient with an end-stage condition and provides
141 directives for that patient's medical treatment and care under
142 certain conditions.

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

144 (a) Adopt rules to implement and administer the POLST
145 program.

146 (b) Prescribe a standardized POLST form.

147 (c) Provide the POLST form in an electronic format on the
148 department's website and prominently state on the website the

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149 requirements for a POLST form as specified under paragraph
150 (3) (a).

151 (d) Consult with health care professional licensing groups,
152 provider advocacy groups, medical ethicists, and other
153 appropriate stakeholders on the development of rules and forms
154 to implement and administer the POLST program.

155 (e) Collaborate with the agency to develop and maintain the
156 clearinghouse.

157 (f) Ensure that department staff receive ongoing training
158 on the POLST program and are aware of the availability of POLST
159 forms.

160 (g) Recommend a statewide, uniform process for identifying
161 a patient who has, or whose legal representative has, executed a
162 POLST form and for providing the contact information for the
163 examining physician to the health care providers currently
164 treating the patient.

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

167 (i) Develop a process for collecting feedback from health
168 care providers to facilitate the periodic redesign of the POLST
169 form in accordance with current health care best practices.

170 (3) POLST FORM.—

171 (a) Requirements.—A POLST form may not include a directive
172 regarding hydration or the preselection of any decision or
173 directive. A POLST form must be voluntarily executed by the
174 patient or, if the patient is incapacitated or a minor, the
175 patient's legal representative, and all directives included in
176 the form must be made by the patient or, if the patient is
177 incapacitated or a minor, the patient's legal representative at

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178 the time of signing the form. A POLST form is not valid and may
179 not be included in a patient's medical records or submitted to
180 the clearinghouse unless the form:

181 1. Is printed on one or both sides of a single piece of
182 paper in a solid color or on white paper as determined by
183 department rule;

184 2. Includes the signatures of the patient and the patient's
185 examining physician or, if the patient is incapacitated or a
186 minor, the patient's legal representative and the patient's
187 examining physician. The POLST form may be executed only after
188 the examining physician consults with the patient or the
189 patient's legal representative, as appropriate;

190 3. Prominently states that completion of a POLST form is
191 voluntary, that the execution or use of a POLST form may not be
192 required as a condition for medical treatment, and that a POLST
193 form may not be given effect if the patient is conscious and
194 competent to make health care decisions;

195 4. Prominently provides in a conspicuous location on the
196 form a space for the patient's examining physician to attest
197 that, in his or her good faith clinical judgment, at the time
198 the POLST form is completed and signed, the patient has the
199 ability to make and communicate health care decisions or, if the
200 patient is incapacitated or a minor, that the patient's legal
201 representative has such ability;

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

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207 6. Identifies the medical condition or conditions, provided
208 by the patient's examining physician, that necessitate the POLST
209 form.

210 (b) Restriction on the use of a POLST form.—A POLST form
211 may be completed only by or for a patient determined by the
212 patient's examining physician to have an end-stage condition or
213 a patient who, in the good faith clinical judgment of the
214 examining physician, is suffering from a life-limiting medical
215 condition that will likely result in the death of the patient
216 within 1 year after the execution of the form.

217 (c) Periodic review of a POLST form.—At a minimum, the
218 patient's examining physician must review the patient's POLST
219 form with the patient or the patient's legal representative, as
220 appropriate, when the patient:

221 1. Is transferred from one health care facility or level of
222 care to another in accordance with subsection (6);

223 2. Is discharged from a health care facility to return home
224 before the expiration of the POLST form;

225 3. Experiences a substantial change in his or her condition
226 as determined by the patient's examining physician, in which
227 case the review must occur within 24 hours after the substantial
228 change; or

229 4. Expresses an intent to change his or her medical
230 treatment preferences.

231 (d) Revocation of a POLST form.—

232 1. A POLST form may be revoked at any time by the patient
233 or the patient's legal representative if the patient is a minor
234 or if the patient is incapacitated and has granted the authority
235 to revoke a POLST form to his or her legal representative.

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236 2. The execution of a POLST form by a patient and the
237 patient's examining physician or, if the patient is
238 incapacitated or a minor, by the patient's legal representative
239 and the patient's examining physician under this section
240 automatically revokes all POLST forms previously executed by the
241 patient.

242 (e) Review of a legal representative's decision on a POLST
243 form.—If a family member of the patient, the health care
244 facility providing services to the patient, or the patient's
245 physician who may reasonably be expected to be affected by the
246 patient's POLST form directives believes that directives
247 executed by the patient's legal representative are in conflict
248 with the patient's prior expressed desires regarding end-of-life
249 care, the family member, facility, or physician may seek
250 expedited judicial intervention pursuant to the Florida Probate
251 Rules.

252 (f) Conflicting advance directives.—To the extent that a
253 directive made on a patient's POLST form conflicts with another
254 advance directive of the patient which addresses a substantially
255 similar health care condition or treatment, the document most
256 recently signed by the patient takes precedence. Such directives
257 may include, but are not limited to:

258 1. A living will.

259 2. A health care power of attorney.

260 3. A POLST form for the specific medical condition or
261 treatment.

262 4. An order not to resuscitate.

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

264 (a) An individual acting in good faith as a legal

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265 representative who executes a POLST form on behalf of an
266 incapacitated patient or a minor patient in accordance with this
267 section and rules adopted by the department is not subject to
268 criminal prosecution or civil liability for executing the POLST
269 form.

270 (b) A licensee, physician, medical director, emergency
271 medical technician, paramedic, or registered nurse who in good
272 faith complies with a POLST form is not subject to criminal
273 prosecution or civil liability for complying with the POLST
274 form, and has not engaged in negligent or unprofessional conduct
275 as a result of carrying out the directives of a POLST form
276 executed in accordance with this section and rules adopted by
277 the department.

278 (5) POLST FORM FOR A MINOR PATIENT.—If a medical order on a
279 POLST form executed for a minor patient directs that life-
280 sustaining treatment may be withheld from the minor patient, the
281 order must include certifications by the patient's examining
282 physician and a health care provider other than the examining
283 physician stating that, in their clinical judgement, an order to
284 withhold medical treatment is in the best interest of the minor
285 patient. A POLST form for a minor patient must be signed by the
286 minor patient's legal representative. The minor patient's
287 examining physician must certify the basis for the authority of
288 the minor patient's legal representative to execute the POLST
289 form on behalf of the minor patient, including the legal
290 representative's compliance with the relevant provisions of
291 chapter 744 or chapter 765.

292 (6) PATIENT TRANSFER; POLST FORM REVIEW REQUIRED.—If a
293 patient whose goals and preferences for care have been entered

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294 in a valid POLST form is transferred from one health care
295 facility or level of care to another, the health care facility
296 or level of care initiating the transfer must communicate the
297 existence of the POLST form to the receiving facility or level
298 of care before the transfer. Upon the patient's transfer, the
299 treating health care provider at the receiving facility or level
300 of care must review the POLST form with the patient or, if the
301 patient is incapacitated or a minor, the patient's legal
302 representative.

303 (7) POLST FORM NOT A PREREQUISITE.—A POLST form may not be
304 a prerequisite for receiving medical services or for admission
305 to a health care facility. A health care facility or health care
306 provider may not require a person to complete, revise, or revoke
307 a POLST form as a condition of receiving medical services or
308 treatment or as a condition of admission. The execution,
309 revision, or revocation of a POLST form must be a voluntary
310 decision of the patient or, if the patient is incapacitated or a
311 minor, the patient's legal representative.

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

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

322 (10) CONSTRUCTION.—This section may not be construed to

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323 condone, authorize, or approve mercy killing or euthanasia. The
324 Legislature does not intend that this act be construed as
325 authorizing an affirmative or deliberate act to end a person's
326 life, except to allow the natural process of dying.

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

329 408.064 Clearinghouse for Compassionate and Palliative Care
330 Plans.-

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

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

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

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

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

346 (e) "End-stage condition" has the same meaning as provided
347 in s. 765.101.

348 (f) "Order not to resuscitate" means an order issued
349 pursuant to s. 401.45(3).

350 (g) "Physician order for life-sustaining treatment" or
351 "POLST" means an order issued pursuant to s. 401.451 which

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352 specifies a patient with an end-stage condition and provides
353 directions for that patient's medical treatment and care under
354 certain conditions.

355 (2) ELECTRONIC DATABASE.—The Agency for Health Care
356 Administration shall:

357 (a) By January 1, 2018, establish and maintain the
358 Clearinghouse for Compassionate and Palliative Care Plans, a
359 reliable and secure database consisting of compassionate and
360 palliative care plans submitted by residents of this state which
361 is accessible to health care providers, health care facilities,
362 and other authorized individuals through a secure electronic
363 portal. The clearinghouse must allow the electronic submission,
364 storage, indexing, and retrieval of such plans and allow access
365 to such plans by the treating health care providers of the
366 patients.

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

373 (c) Consult with compassionate and palliative care
374 providers, health care facilities, and residents of this state
375 as necessary and appropriate to facilitate the development and
376 implementation of the clearinghouse.

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

379 (e) In collaboration with the department, develop and
380 maintain a process for the submission of compassionate and

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381 palliative care plans by residents of this state or by health
382 care providers on behalf, and at the direction, of their
383 patients, or the patients' legal representatives as defined in
384 s. 401.451, for inclusion in the clearinghouse.

385 (f) Provide training to health care providers and health
386 care facilities in this state on how to access plans in the
387 clearinghouse.

388 (3) ALTERNATIVE IMPLEMENTATION.—In lieu of developing the
389 clearinghouse, the agency may subscribe to or otherwise
390 participate in a database operated by a public or private entity
391 if that database meets the requirements of this section. The
392 alternative database must operate on a statewide basis in this
393 state, and may operate on a nationwide or regionwide basis.

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

396 400.142 Emergency medication kits; orders not to
397 resuscitate.—

398 (3) Facility staff may withhold or withdraw cardiopulmonary
399 resuscitation if presented with an order not to resuscitate
400 executed pursuant to s. 401.45 or a physician order for life-
401 sustaining treatment (POLST) form executed pursuant to s.
402 401.451 which contains an order not to resuscitate. Facility
403 staff and facilities are not subject to criminal prosecution or
404 civil liability, or considered to have engaged in negligent or
405 unprofessional conduct, for withholding or withdrawing
406 cardiopulmonary resuscitation pursuant to such an order or a
407 POLST form. The absence of an order not to resuscitate executed
408 pursuant to s. 401.45 or a POLST form executed pursuant to s.
409 401.451 does not preclude a physician from withholding or

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410 withdrawing cardiopulmonary resuscitation as otherwise
411 authorized ~~permitted~~ by law.

412 Section 4. Section 400.487, Florida Statutes, is amended to
413 read:

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

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

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

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439 must be signed within the time allowed under the provider
440 agreement. The treatment orders shall be reviewed, as frequently
441 as the patient's illness requires, by the physician, physician
442 assistant, or advanced registered nurse practitioner in
443 consultation with the home health agency.

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

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

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

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

467 (7) Home health agency personnel may withhold or withdraw

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468 cardiopulmonary resuscitation if presented with an order not to
469 resuscitate executed pursuant to s. 401.45 or a physician order
470 for life-sustaining treatment (POLST) form executed pursuant to
471 s. 401.451 which contains an order not to resuscitate. The
472 agency shall adopt rules providing for the implementation of
473 such orders. Home health personnel and agencies are ~~shall~~ not ~~be~~
474 subject to criminal prosecution or civil liability, and are not
475 ~~nor be~~ considered to have engaged in negligent or unprofessional
476 conduct, for withholding or withdrawing cardiopulmonary
477 resuscitation pursuant to such orders ~~an order~~ and rules adopted
478 by the agency.

479 Section 5. Paragraph (e) of subsection (1) of section
480 400.605, Florida Statutes, is amended to read:

481 400.605 Administration; forms; fees; rules; inspections;
482 fines.—

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

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

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

494 400.6095 Patient admission; assessment; plan of care;
495 discharge; death.—

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

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

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

514 401.35 Rules.—The department shall adopt rules, including
515 definitions of terms, necessary to carry out the purposes of
516 this part.

517 (4) The rules must establish circumstances and procedures
518 under which emergency medical technicians and paramedics may
519 honor orders by the patient's physician not to resuscitate
520 executed pursuant to s. 401.45, or under a physician order for
521 life-sustaining treatment (POLST) form executed pursuant to s.
522 401.451 which contains an order not to resuscitate or honor
523 orders to withhold or withdraw other forms of medical
524 intervention, and the documentation and reporting requirements
525 for handling such requests.

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526 Section 8. Paragraph (a) of subsection (3) of section
527 401.45, Florida Statutes, is amended to read:

528 401.45 Denial of emergency treatment; civil liability.—

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

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

553 429.255 Use of personnel; emergency care.—

554 (4) Facility staff may withhold or withdraw cardiopulmonary

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555 resuscitation or the use of an automated external defibrillator
556 if presented with an order not to resuscitate executed pursuant
557 to s. 401.45 or a physician order for life-sustaining treatment
558 (POLST) form executed pursuant to s. 401.451 which contains an
559 order not to resuscitate. The department shall adopt rules
560 providing for the implementation of such orders. Facility staff
561 and facilities are ~~shall~~ not ~~be~~ subject to criminal prosecution
562 or civil liability, and are not ~~nor be~~ considered to have
563 engaged in negligent or unprofessional conduct, for withholding
564 or withdrawing cardiopulmonary resuscitation or use of an
565 automated external defibrillator pursuant to such an order or a
566 POLST form which contains an order not to resuscitate and rules
567 adopted by the department. The absence of an order not to
568 resuscitate executed pursuant to s. 401.45 or a POLST form
569 executed pursuant to s. 401.451 does not preclude a physician
570 from withholding or withdrawing cardiopulmonary resuscitation or
571 use of an automated external defibrillator as otherwise
572 authorized ~~permitted~~ by law.

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

575 429.73 Rules and standards relating to adult family-care
576 homes.—

577 (3) The department shall adopt rules providing for the
578 implementation of orders not to resuscitate and physician order
579 for life-sustaining treatment (POLST) forms executed pursuant to
580 s. 401.451. The provider may withhold or withdraw
581 cardiopulmonary resuscitation if presented with an order not to
582 resuscitate executed pursuant to s. 401.45 or a POLST form
583 executed pursuant to s. 401.451 which contains an order not to

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584 resuscitate. The provider is ~~shall~~ not ~~be~~ subject to criminal
585 prosecution or civil liability, and is not ~~nor be~~ considered to
586 have engaged in negligent or unprofessional conduct, for
587 withholding or withdrawing cardiopulmonary resuscitation
588 pursuant to such orders ~~an order~~ and applicable rules.

589 Section 11. Present subsections (7) and (8) of section
590 456.072, Florida Statutes, are redesignated as subsections (8)
591 and (9), respectively, and a new subsection (7) is added to that
592 section, to read:

593 456.072 Grounds for discipline; penalties; enforcement.—

594 (7) A licensee may withhold or withdraw cardiopulmonary
595 resuscitation or the use of an automated external defibrillator
596 if presented with an order not to resuscitate executed pursuant
597 to s. 401.45 or a physician order for life-sustaining treatment
598 (POLST) form executed pursuant to s. 401.451 which contains an
599 order not to resuscitate. The department shall adopt rules
600 providing for the implementation of such orders. A licensee is
601 not subject to criminal prosecution or civil liability, and is
602 not considered to have engaged in negligent or unprofessional
603 conduct, for withholding or withdrawing cardiopulmonary
604 resuscitation or the use of an automated external defibrillator,
605 or otherwise carrying out an order in an order not to
606 resuscitate executed pursuant to s. 401.45 or a POLST form
607 executed pursuant to s. 401.451, pursuant to the order not to
608 resuscitate or the POLST form and pursuant to rules adopted by
609 the department. The absence of an order not to resuscitate
610 executed pursuant to s. 401.45 or a POLST form executed pursuant
611 to s. 401.451 does not preclude a licensee from withholding or
612 withdrawing cardiopulmonary resuscitation or the use of an

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613 automated external defibrillator or otherwise carrying out a
614 medical order authorized by law.

615 Section 12. Paragraph (c) of subsection (1) of section
616 765.205, Florida Statutes, is amended to read:

617 765.205 Responsibility of the surrogate.—

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

621 (c) Provide written consent using an appropriate form
622 whenever consent is required, including a physician's order not
623 to resuscitate or a physician order for life-sustaining
624 treatment (POLST) form executed pursuant to s. 401.451.

625 Section 13. This act shall take effect July 1, 2017.