

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 for specified purposes; defining terms;  
7       providing duties of the department; providing  
8       requirements for POLST forms; providing a restriction  
9       on the use of POLST forms; requiring periodic review  
10      of POLST forms; providing for the revocation of POLST  
11      forms under certain circumstances; authorizing  
12      expedited judicial intervention under certain  
13      circumstances; specifying which document takes  
14      precedence when directives in POLST forms conflict  
15      with other advance directives; providing limited  
16      immunity for legal representatives and specified  
17      health care providers acting in good faith in reliance  
18      on POLST forms; specifying additional requirements for  
19      POLST forms executed on behalf of minor patients under  
20      certain circumstances; requiring the review of a POLST  
21      form upon the transfer of a patient; prohibiting  
22      health care facilities and providers from requiring  
23      that a patient have in effect or modify a POLST form  
24      as a prerequisite to treatment or admission; providing  
25      that the presence or absence of a POLST form does not  
26      affect, impair, or modify certain insurance contracts  
27      or annuities, or the issuance thereof, or increase or  
28      decrease premiums; providing that a POLST form is  
29      invalid if it is executed in exchange for payment or

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30 other remuneration; providing construction; creating  
31 s. 408.064, F.S.; defining terms; requiring the Agency  
32 for Health Care Administration, by a specified date,  
33 to establish and maintain a clearinghouse for  
34 compassionate and palliative care plans consisting of  
35 a database accessible to health care providers and  
36 facilities and other authorized individuals; providing  
37 a requirement for the database; providing related  
38 duties of the agency; authorizing the agency to  
39 subscribe to or participate in a public or private  
40 database in lieu of establishing and maintaining the  
41 clearinghouse; amending ss. 400.142 and 400.487, F.S.;  
42 authorizing specified personnel to withhold or  
43 withdraw cardiopulmonary resuscitation if presented  
44 with a POLST form that contains an order not to  
45 resuscitate the patient; providing that the absence of  
46 a POLST form does not preclude physicians or home  
47 health agency personnel from withholding or  
48 withdrawing cardiopulmonary resuscitation under  
49 certain conditions; providing immunity from criminal  
50 prosecution or civil liability to such personnel for  
51 such actions; amending s. 400.605, F.S.; requiring the  
52 Department of Elderly Affairs, in consultation with  
53 the agency, to adopt by rule procedures for the  
54 implementation of POLST forms in hospice care;  
55 amending s. 400.6095, F.S.; authorizing hospice care  
56 teams to withhold or withdraw cardiopulmonary  
57 resuscitation if presented with POLST forms that  
58 contain an order not to resuscitate; providing

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59 immunity from criminal prosecution or civil liability  
60 to hospice staff for such actions; providing that the  
61 absence of a POLST form does not preclude physicians  
62 from withholding or withdrawing cardiopulmonary  
63 resuscitation; amending s. 401.35, F.S.; requiring the  
64 Department of Health to establish circumstances and  
65 procedures for honoring certain POLST forms; amending  
66 s. 401.45, F.S.; authorizing emergency medical  
67 personnel to withhold or withdraw forms of medical  
68 intervention, in addition to cardiopulmonary  
69 resuscitation, under certain circumstances; providing  
70 that a specified form is valid if signed by a minor's  
71 parent or legal guardian; conforming provisions to  
72 changes made by the act; amending s. 429.255, F.S.;  
73 authorizing assisted living facility personnel to  
74 withhold or withdraw cardiopulmonary resuscitation or  
75 the use of an automated external defibrillator if  
76 presented with POLST forms that contain an order not  
77 to resuscitate; providing immunity from criminal  
78 prosecution or civil liability to facility staff and  
79 facilities for such actions; providing that the  
80 absence of a POLST form does not preclude physicians  
81 from withholding or withdrawing cardiopulmonary  
82 resuscitation or the use of an automated external  
83 defibrillator; amending s. 429.73, F.S.; requiring the  
84 Department of Elderly Affairs to adopt rules for the  
85 implementation of POLST forms in adult family-care  
86 homes; authorizing providers of such homes to withhold  
87 or withdraw cardiopulmonary resuscitation if presented

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88 with POLST forms that contain an order not to  
89 resuscitate; providing immunity from criminal  
90 prosecution or civil liability to providers for such  
91 actions; amending s. 456.072, F.S.; authorizing  
92 certain licensees to withhold or withdraw  
93 cardiopulmonary resuscitation or the use of an  
94 automated external defibrillator if presented with  
95 orders not to resuscitate or POLST forms that contain  
96 an order not to resuscitate; requiring the Department  
97 of Health to adopt rules providing for the  
98 implementation of such orders; providing immunity from  
99 criminal prosecution or civil liability to licensees  
100 for the withholding or withdrawing of cardiopulmonary  
101 resuscitation or use of an automated external  
102 defibrillator or for carrying out specified orders  
103 under certain circumstances; providing that the  
104 absence of a POLST form does not preclude a licensee  
105 from withholding or withdrawing cardiopulmonary  
106 resuscitation or the use of an automated external  
107 defibrillator under certain conditions; amending s.  
108 765.205, F.S.; requiring health care surrogates to  
109 provide written consent for POLST forms under certain  
110 circumstances; providing an effective date.

111  
112 Be It Enacted by the Legislature of the State of Florida:

113  
114 Section 1. Section 401.451, Florida Statutes, is created to  
115 read:

116 401.451 Physician Orders for Life-Sustaining Treatment

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

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

126 (a) "Advance directive" has the same meaning as in s.  
127 765.101.

128 (b) "Agency" means the Agency for Health Care  
129 Administration.

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

132 (d) "End-stage condition" has the same meaning as in s.  
133 765.101.

134 (e) "Examining physician" means a physician who examines a  
135 patient who wishes, or whose legal representative wishes, to  
136 execute a POLST form; who attests to the ability of the patient  
137 or the patient's legal representative to make and communicate  
138 health care decisions; who signs the POLST form; and who attests  
139 to the execution of the POLST form by the patient or by the  
140 patient's legal representative.

141 (f) "Health care provider" has the same meaning as in s.  
142 408.07.

143 (g) "Legal representative" means a patient's legally  
144 authorized health care surrogate or proxy as provided in chapter  
145 765; a patient's court-appointed guardian, as provided in

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146 chapter 744, who has been delegated authority to make health  
147 care decisions on behalf of the patient; an attorney in fact,  
148 acting under a durable power of attorney as provided in chapter  
149 709, who has been delegated authority to make health care  
150 decisions on behalf of the patient; or a patient's parent if the  
151 patient is under 18 years of age.

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

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

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

160 (a) Adopt rules to implement and administer the POLST  
161 Program.

162 (b) Prescribe a standardized POLST form.

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 as specified in 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 to implement and administer the POLST Program.

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

172 (f) Ensure that department staff receive ongoing training  
173 on the POLST Program and are aware of the availability of POLST  
174 forms.

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175 (g) Recommend a statewide, uniform process for identifying  
176 a patient who has, or whose legal representative has, executed a  
177 POLST form and for providing the contact information for the  
178 examining physician to the health care providers currently  
179 treating the patient.

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

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

185 (3) POLST FORMS.—

186 (a) Requirements.—A POLST form may not include a directive  
187 regarding hydration or the preselection of any decision or  
188 directive. A POLST form must be voluntarily executed by the  
189 patient or, if the patient is incapacitated or a minor, the  
190 patient's legal representative, and all directives included in  
191 the form must be made by the patient or, if the patient is  
192 incapacitated or a minor, the patient's legal representative at  
193 the time of signing the form. A POLST form is not valid and may  
194 not be included in a patient's medical records or submitted to  
195 the clearinghouse unless the form:

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

198 2. Includes the signatures of the patient and the patient's  
199 examining physician or, if the patient is incapacitated or a  
200 minor, the patient's legal representative and the patient's  
201 examining physician. The POLST form may be executed only after  
202 the examining physician consults with the patient or the  
203 patient's legal representative, as appropriate;

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204 3. Prominently states that completion of a POLST form is  
205 voluntary, that the execution or use of a POLST form may not be  
206 required as a condition for medical treatment, and that a POLST  
207 form may not be given effect if the patient is conscious and  
208 competent to make health care decisions;

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

216 5. Includes an expiration date, provided by the patient's  
217 examining physician, which is within 1 year after the patient or  
218 the patient's legal representative signs the form or which is  
219 contingent on completion of the course of treatment addressed in  
220 the POLST form, whichever occurs first; and

221 6. Identifies the medical condition or conditions, provided  
222 by the patient's examining physician, which necessitate the  
223 POLST form.

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

231 (c) Periodic review.—At a minimum, the patient's examining  
232 physician must review the patient's POLST form with the patient



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233 or the patient's legal representative, as appropriate, when the  
234 patient:

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

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

239 3. Experiences a substantial change in his or her condition  
240 as determined by the patient's examining physician, in which  
241 case the review must occur within 24 hours after the substantial  
242 change; or

243 4. Expresses an intent to change his or her medical  
244 treatment preferences.

245 (d) Revocation.—

246 1. A POLST form may be revoked at any time by the patient;  
247 if the patient is a minor, by the patient's legal  
248 representative; or, if the patient is incapacitated and has  
249 granted the authority to revoke a POLST form to such person, by  
250 his or her legal representative.

251 2. The execution of a POLST form under this section by a  
252 patient and the patient's examining physician or, if the patient  
253 is incapacitated or a minor, by the patient's legal  
254 representative and the patient's examining physician  
255 automatically revokes all POLST forms previously executed by the  
256 patient.

257 (e) Review of a legal representative's decision.—If a  
258 family member of the patient, the health care facility providing  
259 services to the patient, or the patient's physician who may  
260 reasonably be expected to be affected by the patient's POLST  
261 form directives believes that directives executed by the

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262 patient's legal representative are in conflict with the  
263 patient's prior expressed desires regarding end-of-life care,  
264 the family member, facility, or physician may seek expedited  
265 judicial intervention pursuant to the Florida Probate Rules.

266 (f) *Conflicting advance directives.*—To the extent that a  
267 directive made on a patient's POLST form conflicts with another  
268 advance directive of the patient which addresses a substantially  
269 similar health care condition or treatment, the document most  
270 recently signed by the patient takes precedence. Such directives  
271 may include, but are not limited to:

272 1. A living will.

273 2. A health care power of attorney.

274 3. A POLST form for the specific medical condition or  
275 treatment.

276 4. An order not to resuscitate.

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

278 (a) An individual acting in good faith as a legal  
279 representative who executes, in accordance with this section and  
280 rules adopted by the department, a POLST form on behalf of an  
281 incapacitated patient or a minor patient is not subject to  
282 criminal prosecution or civil liability for such execution.

283 (b) A licensee, a physician, a medical director, an  
284 emergency medical technician, a paramedic, or a registered nurse  
285 who in good faith complies with a POLST form is not subject to  
286 criminal prosecution or civil liability for such compliance and  
287 does not engage in negligent or unprofessional conduct by virtue  
288 of compliance with a POLST form executed in accordance with this  
289 section and rules adopted by the department.

290 (5) POLST FORM FOR A MINOR PATIENT.—If a medical order on a

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291 POLST form executed for a minor patient directs that life-  
292 sustaining treatment may be withheld from the minor patient, the  
293 order must include certifications by the patient's examining  
294 physician and a health care provider other than the examining  
295 physician stating that, in their clinical judgment, an order to  
296 withhold medical treatment is in the best interest of the minor  
297 patient. A POLST form for a minor patient must be signed by the  
298 minor patient's legal representative. The minor patient's  
299 examining physician shall certify the basis for the authority of  
300 the minor patient's legal representative to execute the POLST  
301 form on behalf of the minor patient, including the legal  
302 representative's compliance with the relevant provisions of  
303 chapter 744 or chapter 765.

304 (6) PATIENT TRANSFER; POLST FORM REVIEW REQUIRED.—If a  
305 patient whose goals and preferences for care have been  
306 documented in a valid POLST form is transferred from one health  
307 care facility or level of care to another, the health care  
308 facility or level of care initiating the transfer must  
309 communicate the existence of the POLST form to the receiving  
310 facility or level of care before the transfer. Upon the  
311 patient's transfer, the treating health care provider at the  
312 receiving facility or level of care must review the POLST form  
313 with the patient or, if the patient is incapacitated or a minor,  
314 the patient's legal representative.

315 (7) POLST FORM NOT A PREREQUISITE.—A health care facility  
316 or provider may not require that a patient have in effect a  
317 POLST form as a prerequisite to receiving medical services or  
318 admission. A health care facility or health care provider may  
319 not require a person to complete, revise, or revoke a POLST form

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320 as a condition of receiving medical services or treatment or as  
321 a condition of admission. Any decision regarding the execution,  
322 revision, or revocation of a POLST form must be voluntary on the  
323 part of the patient or, if the patient is incapacitated or a  
324 minor, the patient's legal representative.

325 (8) INSURANCE NOT AFFECTED.—The presence or absence of a  
326 POLST form does not affect, impair, or modify a contract of life  
327 or health insurance or an annuity to which an individual is a  
328 party and may not serve as the basis for a delay in issuing or  
329 refusing to issue a policy of life or health insurance or an  
330 annuity or for an increase or decrease in premiums charged to  
331 the individual.

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

335 (10) CONSTRUCTION.—The Legislature intends that this act  
336 not be construed as authorizing an affirmative or deliberate act  
337 to end a person's life, except to allow the natural process of  
338 dying. To that end, this section may not be construed to  
339 condone, authorize, or approve mercy killing or euthanasia.

340 Section 2. Section 408.064, Florida Statutes, is created to  
341 read:

342 408.064 Clearinghouse for compassionate and palliative care  
343 plans.—

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

345 (a) "Advance directive" has the same meaning as in s.  
346 765.101.

347 (b) "Clearinghouse" means an electronic database of  
348 compassionate and palliative care plans established by the

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349 agency under subsection (2) or an alternative database made  
350 available pursuant to subsection (3).

351 (c) "Compassionate and palliative care plan" or "plan"  
352 means an end-of-life document or medical directive document,  
353 including, but not limited to, an advance directive, an order  
354 not to resuscitate, a physician order for life-sustaining  
355 treatment, or a health care surrogate designation, which is  
356 recognized by this state and executed by a resident of this  
357 state.

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

359 (e) "End-stage condition" has the same meaning as in s.  
360 765.101.

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

363 (g) "Physician order for life-sustaining treatment" or  
364 "POLST" means an order issued pursuant to s. 401.451 which  
365 identifies a patient with an end-stage condition and provides  
366 directions for that patient's medical treatment and care in  
367 certain circumstances.

368 (2) ELECTRONIC DATABASE.—Unless a like database is made  
369 available under subsection (3), the agency shall:

370 (a) By January 1, 2020, establish and maintain a  
371 clearinghouse for compassionate and palliative care plans  
372 consisting of such plans submitted by residents of this state  
373 which is accessible to health care providers, health care  
374 facilities, and other authorized individuals through a secure  
375 electronic portal. The clearinghouse must allow the electronic  
376 submission, storage, indexing, and retrieval of such plans and  
377 allow access to them by the treating health care providers of

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378 the patients.

379 (b) Develop and maintain a validation system that confirms  
380 the identity of the health care facility, health care provider,  
381 or other authorized individual seeking the retrieval of a plan  
382 and provides privacy protections that meet all state and federal  
383 privacy and security standards for the release of a patient's  
384 personal and medical information to a third party.

385 (c) Consult with compassionate and palliative care  
386 providers, health care facilities, and residents of this state  
387 as necessary and appropriate to facilitate the development and  
388 implementation of the clearinghouse.

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

391 (e) In collaboration with the department, develop and  
392 maintain a process for the submission of compassionate and  
393 palliative care plans by residents of this state or by health  
394 care providers on behalf of, and at the direction of, their  
395 patients, or the patients' legal representatives as defined in  
396 s. 401.451, for inclusion in the clearinghouse.

397 (f) Provide training to health care providers and health  
398 care facilities in this state as to how to access plans in the  
399 clearinghouse.

400 (3) ALTERNATIVE IMPLEMENTATION.—In lieu of establishing and  
401 maintaining a clearinghouse as provided in subsection (2), the  
402 agency may subscribe to or otherwise participate in a database  
403 operated by a public or private entity which meets the  
404 requirements of this section. The alternative database must  
405 operate on at least a statewide basis and may operate on a  
406 nationwide or regionwide basis.

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

409 400.142 Emergency medication kits; orders not to  
410 resuscitate.—

411 (3) Facility staff may withhold or withdraw cardiopulmonary  
412 resuscitation if presented with an order not to resuscitate  
413 executed pursuant to s. 401.45 or a physician order for life-  
414 sustaining treatment (POLST) form executed pursuant to s.  
415 401.451 which contains an order not to resuscitate. Facility  
416 staff and facilities are not subject to criminal prosecution or  
417 civil liability, or considered to have engaged in negligent or  
418 unprofessional conduct, for withholding or withdrawing  
419 cardiopulmonary resuscitation pursuant to such an order or a  
420 POLST form. The absence of an order not to resuscitate executed  
421 pursuant to s. 401.45 or a POLST form executed pursuant to s.  
422 401.451 does not preclude a physician from withholding or  
423 withdrawing cardiopulmonary resuscitation as otherwise  
424 authorized ~~permitted~~ by law.

425 Section 4. Section 400.487, Florida Statutes, is amended to  
426 read:

427 400.487 Home health service agreements; physician's,  
428 physician assistant's, and advanced practice registered nurse's  
429 treatment orders; patient assessment; establishment and review  
430 of plan of care; provision of services; orders not to  
431 resuscitate; physician orders for life-sustaining treatment  
432 (POLST).—

433 (1) Services provided by a home health agency must be  
434 covered by an agreement between the home health agency and the  
435 patient or the patient's legal representative specifying the

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436 home health services to be provided, the rates or charges for  
437 services paid with private funds, and the sources of payment,  
438 which may include Medicare, Medicaid, private insurance,  
439 personal funds, or a combination thereof. A home health agency  
440 providing skilled care must make an assessment of the patient's  
441 needs within 48 hours after the start of services.

442 (2) If ~~When~~ required by ~~the provisions of~~ chapter 464; part  
443 I, part III, or part V of chapter 468; or chapter 486, the  
444 attending physician, physician assistant, or advanced practice  
445 registered nurse, acting within his or her respective scope of  
446 practice, shall establish treatment orders for a patient who is  
447 to receive skilled care. The treatment orders must be signed by  
448 the physician, physician assistant, or advanced practice  
449 registered nurse before a claim for payment for the skilled  
450 services is submitted by the home health agency. If the claim is  
451 submitted to a managed care organization, the treatment orders  
452 must be signed within the time allowed under the provider  
453 agreement. The treatment orders shall be reviewed, as frequently  
454 as the patient's illness requires, by the physician, physician  
455 assistant, or advanced practice registered nurse in consultation  
456 with the home health agency.

457 (3) A home health agency shall arrange for supervisory  
458 visits by a registered nurse to the home of a patient receiving  
459 home health aide services in accordance with the patient's  
460 direction, approval, and agreement to pay the charge for the  
461 visits.

462 (4) Each patient has the right to be informed of and to  
463 participate in the planning of his or her care. Each patient  
464 must be provided, upon request, a copy of the plan of care



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465 established and maintained for that patient by the home health  
466 agency.

467 (5) ~~If~~ When nursing services are ordered, the home health  
468 agency to which a patient has been admitted for care must  
469 provide the initial admission visit, all service evaluation  
470 visits, and the discharge visit by a direct employee. Services  
471 provided by others under contractual arrangements to a home  
472 health agency must be monitored and managed by the admitting  
473 home health agency. The admitting home health agency is fully  
474 responsible for ensuring that all care provided through its  
475 employees or contract staff is delivered in accordance with this  
476 part and applicable rules.

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

480 (7) Home health agency personnel may withhold or withdraw  
481 cardiopulmonary resuscitation if presented with an order not to  
482 resuscitate executed pursuant to s. 401.45 or a POLST form  
483 executed pursuant to s. 401.451 which contains an order not to  
484 resuscitate. The agency shall adopt rules providing for the  
485 implementation of such orders. Home health personnel and  
486 agencies are ~~shall~~ not be subject to criminal prosecution or  
487 civil liability, and are not ~~nor be~~ considered to have engaged  
488 in negligent or unprofessional conduct, for withholding or  
489 withdrawing cardiopulmonary resuscitation pursuant to such  
490 orders ~~an order~~ and rules adopted by the agency.

491 Section 5. Paragraph (e) of subsection (1) of section  
492 400.605, Florida Statutes, is amended to read:

493 400.605 Administration; forms; fees; rules; inspections;

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494 fines.—

495 (1) The agency, in consultation with the department, may  
 496 adopt rules to administer the requirements of part II of chapter  
 497 408. The department, in consultation with the agency, shall by  
 498 rule establish minimum standards and procedures for a hospice  
 499 pursuant to this part. The rules must include:

500 (e) Procedures relating to the implementation of advance  
 501 ~~advanced~~ directives; physician orders for life-sustaining  
 502 treatment forms executed pursuant to s. 401.451; and orders not  
 503 to resuscitate ~~do not resuscitate orders.~~

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

506 400.6095 Patient admission; assessment; plan of care;  
 507 discharge; death.—

508 (8) The hospice care team may withhold or withdraw  
 509 cardiopulmonary resuscitation if presented with an order not to  
 510 resuscitate executed pursuant to s. 401.45 or a physician order  
 511 for life-sustaining treatment (POLST) form executed pursuant to  
 512 s. 401.451 which contains an order not to resuscitate. The  
 513 department shall adopt rules providing for the implementation of  
 514 such orders. Hospice staff are ~~shall~~ not ~~be~~ subject to criminal  
 515 prosecution or civil liability, and are not ~~nor be~~ considered to  
 516 have engaged in negligent or unprofessional conduct, for  
 517 withholding or withdrawing cardiopulmonary resuscitation  
 518 pursuant to such orders ~~an order~~ and applicable rules. The  
 519 absence of an order to resuscitate executed pursuant to s.  
 520 401.45 or a POLST form executed pursuant to s. 401.451 does not  
 521 preclude a physician from withholding or withdrawing  
 522 cardiopulmonary resuscitation as otherwise authorized ~~permitted~~

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523 by law.

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

526 401.35 Rules.—The department shall adopt rules, including  
527 definitions of terms, necessary to carry out the purposes of  
528 this part.

529 (4) The rules must establish circumstances and procedures  
530 under which emergency medical technicians and paramedics may  
531 honor orders by the patient's physician not to resuscitate  
532 executed pursuant to s. 401.45, or under a physician order for  
533 life-sustaining treatment form executed pursuant to s. 401.451  
534 which contains an order not to resuscitate, or honor orders to  
535 withhold or withdraw other forms of medical intervention, and  
536 the documentation and reporting requirements for handling such  
537 requests.

538 Section 8. Paragraph (a) of subsection (3) of section  
539 401.45, Florida Statutes, is amended to read:

540 401.45 Denial of emergency treatment; civil liability.—

541 (3) (a) Resuscitation or other forms of medical intervention  
542 may be withheld or withdrawn from a patient by an emergency  
543 medical technician, ~~or~~ paramedic, or other health care  
544 professional if the technician, paramedic, or other professional  
545 is presented with evidence of an order not to resuscitate by the  
546 patient's physician or evidence of a physician order for life-  
547 sustaining treatment form executed pursuant to s. 401.451 which  
548 contains an order not to resuscitate or an order not to perform  
549 other medical intervention, as applicable ~~is presented to the~~  
550 ~~emergency medical technician or paramedic. To be valid, an order~~  
551 not to resuscitate or not to perform other medical intervention,

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552 ~~to be valid,~~ must be on the form adopted by rule of the  
553 department. The form must be signed by the patient's physician  
554 and by the patient or, if the patient is incapacitated, the  
555 patient's health care surrogate or proxy as provided in chapter  
556 765, court-appointed guardian as provided in chapter 744, or  
557 attorney in fact under a durable power of attorney as provided  
558 in chapter 709 or, if the patient is a minor, the patient's  
559 parent or legal guardian. The court-appointed guardian or  
560 attorney in fact must have been delegated authority to make  
561 health care decisions on behalf of the patient.

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

564 429.255 Use of personnel; emergency care.—

565 (4) Facility staff may withhold or withdraw cardiopulmonary  
566 resuscitation or the use of an automated external defibrillator  
567 if presented with an order not to resuscitate executed pursuant  
568 to s. 401.45 or a physician order for life-sustaining treatment  
569 (POLST) form executed pursuant to s. 401.451 which contains an  
570 order not to resuscitate. The department shall adopt rules  
571 providing for the implementation of such orders. Facility staff  
572 and facilities are ~~shall~~ not ~~be~~ subject to criminal prosecution  
573 or civil liability, and are not ~~nor be~~ considered to have  
574 engaged in negligent or unprofessional conduct, for withholding  
575 or withdrawing cardiopulmonary resuscitation or the use of an  
576 automated external defibrillator pursuant to such an order or a  
577 POLST form that contains an order not to resuscitate and rules  
578 adopted by the department. The absence of an order not to  
579 resuscitate executed pursuant to s. 401.45 or a POLST form  
580 executed pursuant to s. 401.451 does not preclude a physician

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581 from withholding or withdrawing cardiopulmonary resuscitation or  
582 the use of an automated external defibrillator as otherwise  
583 authorized ~~permitted~~ by law.

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

586 429.73 Rules and standards relating to adult family-care  
587 homes.—

588 (3) The department shall adopt rules providing for the  
589 implementation of orders not to resuscitate and physician orders  
590 for life-sustaining treatment (POLST) forms executed pursuant to  
591 s. 401.451. The provider may withhold or withdraw  
592 cardiopulmonary resuscitation if presented with an order not to  
593 resuscitate executed pursuant to s. 401.45 or a POLST form  
594 executed pursuant to s. 401.451 which contains an order not to  
595 resuscitate. The provider is ~~shall~~ not ~~be~~ subject to criminal  
596 prosecution or civil liability, and is not ~~nor be~~ considered to  
597 have engaged in negligent or unprofessional conduct, for  
598 withholding or withdrawing cardiopulmonary resuscitation  
599 pursuant to such orders ~~an order~~ and applicable rules.

600 Section 11. Present subsections (7) and (8) of section  
601 456.072, Florida Statutes, are redesignated as subsections (8)  
602 and (9), respectively, and a new subsection (7) is added to that  
603 section, to read:

604 456.072 Grounds for discipline; penalties; enforcement.—

605 (7) A licensee may withhold or withdraw cardiopulmonary  
606 resuscitation or the use of an automated external defibrillator  
607 if presented with an order not to resuscitate executed pursuant  
608 to s. 401.45 or a physician order for life-sustaining treatment  
609 (POLST) form executed pursuant to s. 401.451 which contains an

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610 order not to resuscitate. The department shall adopt rules  
611 providing for the implementation of such orders. A licensee is  
612 not subject to criminal prosecution or civil liability, and is  
613 not considered to have engaged in negligent or unprofessional  
614 conduct, for withholding or withdrawing cardiopulmonary  
615 resuscitation or the use of an automated external defibrillator,  
616 or otherwise complying with an order not to resuscitate executed  
617 pursuant to s. 401.45 or a POLST form executed pursuant to s.  
618 401.451 and department rule. The absence of an order not to  
619 resuscitate executed pursuant to s. 401.45 or a POLST form  
620 executed pursuant to s. 401.451 does not preclude a licensee  
621 from withholding or withdrawing cardiopulmonary resuscitation or  
622 the use of an automated external defibrillator or otherwise  
623 carrying out a medical order authorized by law.

624 Section 12. Paragraph (c) of subsection (1) of section  
625 765.205, Florida Statutes, is amended to read:

626 765.205 Responsibility of the surrogate.—

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

630 (c) Provide written consent using an appropriate form  
631 whenever consent is required, including a physician's order not  
632 to resuscitate or a physician order for life-sustaining  
633 treatment form executed pursuant to s. 401.451.

634 Section 13. This act shall take effect July 1, 2019.