
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 631 Session of
2023

INTRODUCED BY YAW, J. WARD AND BAKER, APRIL 28, 2023

REFERRED TO HEALTH AND HUMAN SERVICES, APRIL 28, 2023

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, in general provisions
3 relating to health care, further providing for applicability,
4 for definitions, for criminal penalties, for emergency
5 medical services, for definitions, for orders, bracelets and
6 necklaces, for revocation, for absence of order, bracelet or
7 necklace and for emergency medical services, repealing
8 provisions relating to advisory committee and providing for
9 discontinuance and for Pennsylvania orders for life-
10 sustaining treatment; and making editorial changes.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 5421(a) of Title 20 of the Pennsylvania
14 Consolidated Statutes is amended to read:

15 § 5421. Applicability.

16 (a) General rule.--This chapter applies to advance health
17 care directives [and], out-of-hospital nonresuscitation orders
18 and Pennsylvania orders for life-sustaining treatment.

19 * * *

20 Section 2. The definitions of "health care provider,"
21 "medical command physician," "order" and "patient" in section
22 5422 of Title 20 are amended and the section is amended by

1 adding definitions to read:

2 § 5422. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 * * *

7 "Health care provider." A person who is licensed, certified
8 or otherwise authorized by the laws of this Commonwealth to
9 administer or provide health care in the ordinary course of
10 business or practice of a profession. The term includes
11 personnel recognized under [the act of July 3, 1985 (P.L.164,
12 No.45), known as the Emergency Medical Services Act.] 35 Pa.C.S.
13 Ch. 81 (relating to emergency medical services system) and those
14 individuals recognized under 42 Pa.C.S. § 8331.2 (relating to
15 good Samaritan civil immunity for use of automated external
16 defibrillator).

17 * * *

18 "Medical command physician." A licensed physician who is
19 authorized to give a medical command under [the act of July 3,
20 1985 (P.L.164, No.45), known as the Emergency Medical Services
21 Act] 35 Pa.C.S. Ch. 81 (relating to emergency medical services
22 system).

23 * * *

24 "Order." An out-of-hospital do-not-resuscitate order as
25 defined under section 5483 (relating to definitions) or
26 Pennsylvania orders for life-sustaining treatment as defined
27 under section 5493 (relating to definitions).

28 "Out-of-hospital do-not-resuscitate order" or "OOH-DNR
29 order." An out-of-hospital do-not-resuscitate order as defined
30 under section 5483 (relating to definitions).

1 ["Patient." An out-of-hospital do-not-resuscitate patient as
2 defined under section 5483 (relating to definitions).]

3 "Pennsylvania orders for life-sustaining treatment" or
4 "POLST." Pennsylvania orders for life-sustaining treatment as
5 defined under section 5493 (relating to definitions).

6 * * *

7 Section 3. Sections 5432, 5445(b), 5483, 5484(a) and (b),
8 5485, 5486 and 5487 of Title 20 are amended to read:

9 § 5432. Criminal penalties.

10 (a) Criminal homicide.--A person shall be subject to
11 prosecution for criminal homicide as provided in 18 Pa.C.S. Ch.
12 25 (relating to criminal homicide) if the person intends to
13 cause the withholding or withdrawal of life-sustaining treatment
14 contrary to the wishes of the principal or patient and, because
15 of that action, directly causes life-sustaining treatment to be
16 withheld or withdrawn and death to be hastened and:

17 (1) falsifies or forges the advance health care
18 directive, OOH-DNR order, bracelet [or], necklace or POLST
19 of that principal or patient; or

20 (2) willfully conceals or withholds personal knowledge
21 of a revocation of an advance health care directive or DNR
22 status.

23 (b) Interference with health care directive.--A person
24 commits a felony of the third degree if that person willfully:

25 (1) conceals, cancels, alters, defaces, obliterates or
26 damages an advance health care directive, OOH-DNR order,
27 bracelet [or], necklace or POLST without the consent of the
28 principal or patient;

29 (2) causes a person to execute an advance health care
30 directive or order or wear a bracelet or necklace by undue

1 influence, fraud or duress; or
2 (3) falsifies or forges an advance health care
3 directive, OOH-DNR order, bracelet [or], necklace or POLST
4 or any amendment or revocation thereof, the result of which
5 is a direct change in the health care provided to the
6 principal or patient.

7 § 5445. Emergency medical services.

8 * * *

9 (b) Applicability.--This section is applicable only in those
10 instances where an out-of-hospital DNR order is not in effect
11 under section 5484 (relating to OOH-DNR orders, bracelets and
12 necklaces).

13 § 5483. Definitions.

14 The following words and phrases when used in this subchapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Department." The Department of Health of the Commonwealth.

18 "Emergency medical services provider." [A health care
19 provider recognized under the act of July 3, 1985 (P.L.164,
20 No.45), known as the Emergency Medical Services Act.] As defined
21 under 35 Pa.C.S. § 8103 (relating to definitions). The term
22 includes those individuals recognized under 42 Pa.C.S. § 8331.2
23 (relating to good Samaritan civil immunity for use of automated
24 external defibrillator).

25 "EMS." Emergency medical services.

26 "Health care provider." A person who is licensed, certified
27 or otherwise authorized by the laws of this Commonwealth to
28 administer or provide health care in the ordinary course of
29 business or practice of a profession. The term includes
30 personnel recognized under [the act of July 3, 1985 (P.L.164,

1 No.45), known as the Emergency Medical Services Act,] 35 Pa.C.S.
2 Ch. 81 (relating to emergency medical services system) and those
3 individuals recognized under 42 Pa.C.S. § 8331.2 (relating to
4 good Samaritan civil immunity for use of automated external
5 defibrillator).

6 "Out-of-hospital do-not-resuscitate bracelet." A bracelet in
7 the standard format set forth in section 5484 (relating to OOH-
8 DNR orders, bracelets and necklaces), supplied by the department
9 and issued by the attending physician, which may be worn at the
10 patient's option to notify emergency medical services providers
11 of the presence of an OOH-DNR order.

12 "Out-of-hospital do-not-resuscitate necklace." A necklace in
13 the standard format set forth in section 5484 (relating to OOH-
14 DNR orders, bracelets and necklaces), supplied by the department
15 and issued by the attending physician, which may be worn at the
16 patient's option to notify emergency medical services providers
17 of the presence of an OOH-DNR order.

18 "Out-of-hospital do-not-resuscitate order[.]" or "OOH-DNR
19 order." An order in the standard format set forth in section
20 5484 (relating to OOH-DNR orders, bracelets and necklaces),
21 supplied by the department and issued by the attending
22 physician, directing emergency medical services providers to
23 withhold cardiopulmonary resuscitation from the patient in the
24 event of respiratory or cardiac arrest.

25 "Out-of-hospital do-not-resuscitate patient." An individual
26 who:

27 (1) Has an end-stage medical condition or is permanently
28 unconscious.

29 (2) Pursuant to section 5484(a) (relating to OOH-DNR
30 orders, bracelets and necklaces), possesses and in any manner

1 displays or causes to be displayed for emergency medical
2 services providers an apparently valid OOH-DNR order,
3 bracelet or necklace.

4 "Surrogate." A health care agent or a health care
5 representative.

6 § 5484. [Orders] OOH-DNR orders, bracelets and necklaces.

7 (a) Issuance.--An attending physician, upon the request of a
8 patient who is at least 18 years of age, has graduated from high
9 school, has married or is an emancipated minor, or the patient's
10 surrogate if the surrogate is so authorized, shall issue to the
11 patient an OOH-DNR order and may issue at the request of the
12 patient or the patient's surrogate a bracelet or necklace
13 supplied by the department. The patient may, at the patient's
14 option, wear the bracelet or display the order or necklace to
15 notify emergency medical services providers of the patient's DNR
16 status.

17 (b) Format of OOH-DNR order.--The department shall, with the
18 advice of the Pennsylvania Emergency Health Services Council and
19 with the assistance of the regional emergency medical services
20 councils, make available standard OOH-DNR orders for issuance to
21 patients by attending physicians of this Commonwealth. The form
22 of the order shall contain, but not be limited to, the
23 following:

24 PENNSYLVANIA OUT-OF-HOSPITAL

25 DO-NOT-RESUSCITATE ORDER

26 Patient's full legal name:

27 I, the undersigned, state that I am the attending
28 physician of the patient named above. The above-named patient
29 or the patient's surrogate has requested this order, and I
30 have made the determination that the patient is eligible for

1 an order and satisfies one of the following:

2 has an end-stage medical condition.

3 is permanently unconscious and has a living
4 will directing that no cardiopulmonary resuscitation be
5 provided to the patient in the event of the patient's cardiac
6 or respiratory arrest.

7 I direct any and all emergency medical services
8 personnel, commencing on the effective date of this order, to
9 withhold cardiopulmonary resuscitation (cardiac compression,
10 invasive airway techniques, artificial ventilation,
11 defibrillation and other related procedures) from the patient
12 in the event of the patient's respiratory or cardiac arrest.
13 I further direct such personnel to provide to the patient
14 other medical interventions, such as intravenous fluids,
15 oxygen or other therapies necessary to provide comfort care
16 or to alleviate pain, unless directed otherwise by the
17 patient or the emergency medical services provider's
18 authorized medical command physician.

19 Signature of attending physician:

20 Printed name of attending physician:

21 Dated:

22 Attending physician's emergency telephone number:

23 I, the undersigned, hereby direct that in the event of my
24 cardiac and/or respiratory arrest efforts at cardiopulmonary
25 resuscitation not be initiated and that they may be withdrawn
26 if initiated. I understand that I may revoke these directions
27 at any time by giving verbal instructions to the emergency
28 medical services providers, by physical cancellation or
29 destruction of this form or my bracelet or necklace or by
30 simply not displaying this form or the bracelet or necklace

1 for my EMS [caregivers] providers.

2 Signature of patient (if capable of making informed
3 decisions):

4 I, the undersigned, hereby certify that I am authorized
5 to execute this order on the patient's behalf by virtue of
6 having been designated as the patient's surrogate and/or by
7 virtue of my relationship to the patient (specify
8 relationship:). I hereby direct that in the event
9 of the patient's cardiac and/or respiratory arrest efforts at
10 cardiopulmonary resuscitation not be initiated and be
11 withdrawn if initiated.

12 Signature of surrogate (if patient is incapable of making
13 informed decisions):

14 * * *

15 § 5485. Revocation.

16 (a) Patient.--If a patient has obtained an OOH-DNR order,
17 only the patient may revoke the patient's DNR status.

18 (b) Surrogate.--If a surrogate has obtained an OOH-DNR
19 order, the patient or the surrogate may revoke a patient's
20 status.

21 (c) Manner.--Revocation under this section may be done at
22 any time without regard to the patient's physical or mental
23 condition and in any manner, including verbally or by destroying
24 or not displaying the OOH-DNR order, bracelet or necklace.

25 § 5486. Absence of OOH-DNR order, bracelet or necklace.

26 If an OOH-DNR order has not been issued by an attending
27 physician, a presumption does not arise as to the intent of the
28 individual to consent to or to refuse the initiation,
29 continuation or termination of life-sustaining treatment.

30 § 5487. Emergency medical services.

1 (a) Medical command instructions.--Notwithstanding the
2 absence of an OOH-DNR order, bracelet or necklace pursuant to
3 this section, emergency medical services providers shall at all
4 times comply with the instructions of an authorized medical
5 command physician to withhold or discontinue resuscitation.

6 (b) Effect of OOH-DNR order, bracelet or necklace.--

7 (1) Emergency medical services providers are authorized
8 to and shall comply with an OOH-DNR order if made aware of
9 the order by examining a bracelet, a necklace or the order
10 itself.

11 (2) Emergency medical services providers shall provide
12 other medical interventions necessary and appropriate to
13 provide comfort and alleviate pain, including intravenous
14 fluids, medications, oxygen and any other intervention
15 appropriate to the level of the certification of the
16 provider, unless otherwise directed by the patient or the
17 emergency medical services provider's authorized medical
18 command physician.

19 (3) As used in this subsection, the term "comply" means:

20 (i) to withhold cardiopulmonary resuscitation from
21 the patient in the event of respiratory or cardiac
22 arrest; or

23 (ii) to discontinue and cease cardiopulmonary
24 resuscitation in the event the emergency medical services
25 provider is presented with an OOH-DNR order or discovers
26 a necklace or bracelet after initiating cardiopulmonary
27 resuscitation.

28 (c) Uncertainty regarding validity or applicability of OOH-
29 DNR order, bracelet or necklace.--

30 (1) Emergency medical services providers who in good

1 faith are uncertain about the validity or applicability of an
2 OOH-DNR order, bracelet or necklace shall render care in
3 accordance with their level of certification.

4 (2) Emergency medical services providers who act under
5 paragraph (1) shall not be subject to civil or criminal
6 liability or administrative sanction for failure to comply
7 with an OOH-DNR order under this section.

8 (d) Recognition of other states' orders.--Emergency medical
9 services or [out-of-hospital DNR] OOH-DNR orders, bracelets or
10 necklaces valid in states other than this Commonwealth shall be
11 recognized in this Commonwealth to the extent that these orders,
12 bracelets or necklaces and the criteria for their issuance are
13 consistent with the laws of this Commonwealth. Emergency medical
14 services providers shall act in accordance with the provisions
15 of this section when encountering a patient with an apparently
16 valid EMS or out-of-hospital DNR form, bracelet or necklace
17 issued by another state. Emergency medical services providers
18 acting in good faith under this section shall be entitled to the
19 same immunities and protections that would otherwise be
20 applicable.

21 Section 4. Section 5488 of Title 20 is repealed:

22 [§ 5488. Advisory committee.]

23 (a) Establishment.--Within 60 days of the effective date of
24 this section, the department shall establish a committee to
25 assist it in determining the advisability of using a
26 standardized form containing orders by qualified physicians that
27 detail the scope of medical treatment for patients' life-
28 sustaining wishes.

29 (b) Membership.--The committee shall include representatives
30 from the Pennsylvania Medical Society, the Hospital and Health

1 System Association of Pennsylvania, the Joint State Government
2 Commission's Advisory Committee on Decedents' Estates Laws, the
3 Pennsylvania Bar Association, the Department of Aging, the
4 Department of Public Welfare and other interested persons at the
5 department's discretion.

6 (c) Scope of review.--The committee's review shall include,
7 but not be limited to, examination of the following:

8 (1) The need to adopt this type of standardized form in
9 view of the existing use of do-not-resuscitate orders.

10 (2) The use and evaluation of use of such forms in other
11 states.

12 (3) Any other matters determined by the department to be
13 relevant to its determination.]

14 Section 5. Title 20 is amended by adding a section to read:
15 § 5489. Discontinuance.

16 An OOH-DNR order may not be executed on or after the date the
17 department adopts an initial POLST form under section 5498
18 (relating to POLST form). This subchapter shall continue to
19 apply to any OOH-DNR order executed prior to the date the
20 department adopts an initial POLST form. Previously executed
21 OOH-DNR orders, bracelets and necklaces may continue to be
22 recognized as valid.

23 Section 6. Chapter 54 of Title 20 is amended by adding a
24 subchapter to read:

25 SUBCHAPTER F

26 PENNSYLVANIA ORDERS FOR LIFE-SUSTAINING TREATMENT

27 Sec.

28 5491. Scope of subchapter.

29 5492. Legislative findings and intent.

30 5493. Definitions.

- 1 5494. Prohibitions on use.
- 2 5495. Voluntary consent requirement.
- 3 5496. POLST Advisory Committee.
- 4 5497. Administration of POLST program.
- 5 5498. POLST form.
- 6 5498.1. Education about POLST.
- 7 5498.2. Requirements for valid POLST.
- 8 5498.3. Portability.
- 9 5498.4. Team care.
- 10 5498.5. Copies of orders.
- 11 5498.6. Signature options.
- 12 5498.7. Standards for surrogate decision makers.
- 13 5498.8. Revocation.
- 14 5498.9. Transfer requirements.
- 15 5498.10. Review requirements.
- 16 5498.11. Compliance.
- 17 5498.12. Emergency medical services.
- 18 5498.13. Immunity.
- 19 5498.14. Conflict with advance health care directive.
- 20 5498.15. POLST executed under prior POLST form.
- 21 5498.16. POLST executed under PLSWC form.
- 22 5498.17. POLST executed in another state or jurisdiction.
- 23 5498.18. POLST registry study.
- 24 § 5491. Scope of subchapter.
- 25 This subchapter relates to Pennsylvania Orders for Life-
- 26 Sustaining Treatment.
- 27 § 5492. Legislative findings and intent.
- 28 The General Assembly finds and declares as follows:
- 29 (1) All individuals have a qualified right to control
- 30 their health care and should not lose that right if they

1 become incompetent or have never been a competent adult.

2 (2) The Commonwealth has recognized this right by
3 providing for advance health care directives in which
4 individuals may provide direction and state their goals and
5 preferences about future health care and by providing for
6 surrogate decision makers for incompetent adults and
7 unemancipated minors.

8 (3) A Pennsylvania order for life-sustaining treatment,
9 or POLST, differs from an advance health care directive as it
10 converts an individual's wishes regarding health care into a
11 medical order that is immediately actionable and applicable
12 across all health care settings.

13 (4) The use of POLST may overcome many of the
14 limitations and problems associated with advance health care
15 directives and existing orders regarding cardiopulmonary
16 resuscitation and other end-of-life care, including out-of-
17 hospital do-not-resuscitate orders.

18 (5) In many cases, advance health care directives only
19 name a surrogate decision maker to make health care decisions
20 for the principal or lack specificity as to the principal's
21 goals and preferences for a medical condition that
22 subsequently develops because it was not foreseen by the
23 principal.

24 (6) Existing medical orders frequently are ineffective
25 when the patient is transferred from one care setting to
26 another because the procedures, forms and requirements at
27 each care setting may be different, resulting in a loss in
28 the ability of patients to have their wishes honored.

29 (7) Existing emergency medical services protocols may
30 require emergency medical services personnel to proceed to

1 cardiopulmonary resuscitation when an individual is found in
2 cardiac and respiratory arrest, even if the individual has
3 completed an advance directive or has otherwise clearly
4 indicated that the individual does not wish to receive
5 cardiopulmonary resuscitation.

6 (8) A POLST, which is executed by a health care
7 practitioner under appropriate circumstances to implement the
8 wishes of the patient expressed directly by the patient or
9 through a surrogate decision maker, provides clear direction
10 for the patient's care regarding health care issues likely to
11 emerge given the patient's current medical condition.

12 (9) A key step in the POLST process is the health care
13 practitioner's review with the patient or the patient's
14 surrogate decision maker of the patient's current health
15 status, diagnoses and prognosis to determine whether a POLST
16 order would be appropriate or should be updated.

17 (10) The POLST decision-making process and medical
18 orders are intended for patients who are considered to be at
19 risk for a life-threatening clinical event because they have
20 a serious life-limiting medical condition, which may include
21 advanced frailty.

22 (11) Among vulnerable populations, including persons
23 with disabilities, a POLST is appropriate for seriously ill
24 or frail patients if their health care practitioner would not
25 be surprised if they died within the next year.

26 (12) A POLST is not recommended for individuals with
27 stable, even chronic, medical conditions with years of life
28 expectancy.

29 (13) It should not be assumed that all patients in any
30 facility, including a nursing home, should have or would

1 desire a POLST.

2 (14) The well-being of the patient is paramount in
3 considering a POLST, not cost savings to the government or
4 insurers.

5 (15) A POLST is appropriately entered following a shared
6 decision-making process that facilitates patient consent that
7 is voluntary, educated, collaborative and thoughtful,
8 including a discussion of the patient's current clinical
9 status, treatment options and likely outcomes, together with
10 the patient's goals of care, preferences and values.

11 (16) Conversations about a POLST must avoid any bias
12 against continuation of care and must not characterize the
13 continuation of life as burdensome. When appropriate, these
14 conversations should emphasize palliative care and hospice
15 availability.

16 (17) A standardized POLST form, which is easily
17 recognized, understood and implemented, can greatly advance
18 the ability of patients to ensure that their medical care is
19 aligned with their goals of care, preferences and values, as
20 informed by a shared decision-making process.

21 (18) Advance health care directives remain critically
22 important for adults from the age of majority until death. An
23 advance health care directive, rather than a POLST, is the
24 appropriate advance care planning tool for healthy patients.

25 (19) When the use of a POLST becomes appropriate, an
26 existing advance health care directive will help shape the
27 choices of the patient or the patient's surrogate decision
28 maker when discussing a POLST with a health care provider.

29 (20) This subchapter is intended to provide a framework
30 and legal authority for a POLST to be valid and portable

1 across all care settings, consistent with the foregoing
2 findings.

3 § 5493. Definitions.

4 The following words and phrases when used in this subchapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Committee." The POLST Advisory Committee established under
8 this subchapter.

9 "Department." The Department of Health of the Commonwealth.

10 "Health care facility." Any of the following:

11 (1) A facility that is licensed as a health care
12 facility by the department under Chapter 8 of the act of July
13 19, 1979 (P.L.130, No.48), known as the Health Care
14 Facilities Act, including a hospital, long term care
15 facility, home health care agency or hospice.

16 (2) A facility that is licensed or approved by the
17 Department of Human Services under Article IX or X of the act
18 of June 13, 1967 (P.L.31, No.21), known as the Human Services
19 Code, and provides health care services, including a
20 psychiatric facility or intermediate care facility for the
21 developmentally or intellectually disabled.

22 (3) A facility that is licensed as a prescribed
23 pediatric extended care center by the department under the
24 act of November 24, 1999 (P.L.884, No.54), known as the
25 Prescribed Pediatric Extended Care Centers Act.

26 "Health care insurer." A person, corporation or other entity
27 that offers administrative, indemnity or payment services under
28 a program of health care or disability benefits, including the
29 following:

30 (1) An insurance company, association, exchange or

1 fraternal benefit society subject to the act of May 17, 1921
2 (P.L.682, No.284), known as The Insurance Company Law of
3 1921.

4 (2) A health maintenance organization subject to the act
5 of December 29, 1972 (P.L.1701, No.364), known as the Health
6 Maintenance Organization Act.

7 (3) A hospital plan corporation subject to 40 Pa.C.S.
8 Ch. 61 (relating to hospital plan corporations).

9 (4) A professional health service corporation subject to
10 40 Pa.C.S. Ch. 63 (relating to professional health services
11 plan corporations).

12 (5) A self-insured employee welfare benefit plan.

13 (6) A third-party administrator of a self-insured
14 employee welfare benefit plan.

15 (7) A Federal, State or local government sponsored or
16 operated program.

17 "Health care practitioner." A physician, physician assistant
18 or certified registered nurse practitioner acting in accordance
19 with applicable law, including their respective licensing acts
20 and regulations.

21 "Health care provider." As defined in section 5483 (relating
22 to definitions).

23 "Patient Life-Sustaining Wishes Committee." The committee
24 appointed to assist the department in determining the
25 advisability of using a standardized form containing orders by
26 qualified physicians that detail the scope of medical treatment
27 for patients' life-sustaining wishes under former section 5488
28 (relating to advisory committee).

29 "Pennsylvania orders for life-sustaining treatment" or
30 "POLST." One or more medical orders, issued for the care of an

1 individual, regarding cardiopulmonary resuscitation or other
2 medical interventions that are entered in accordance with
3 section 5498.2 (relating to requirements for valid POLST).

4 "PLSWC form." The form for a POLST previously approved by
5 the department on the recommendation of the Patient Life-
6 Sustaining Wishes Committee.

7 "POLST form." The form for a POLST adopted under section
8 5498 (relating to POLST form).

9 "Secretary." The Secretary of Health of the Commonwealth.

10 "Surrogate decision maker." A health care agent, health care
11 representative, guardian of the person or parent of a minor who
12 is legally authorized to make a health care decision for a
13 patient.

14 § 5494. Prohibitions on use.

15 (a) Stable medical conditions.--A POLST is not recommended
16 for individuals with stable, even if chronic, medical conditions
17 and years of life expectancy.

18 (b) Construction.--Nothing in this subchapter shall be
19 construed to advance or support euthanasia, suicide or health
20 care practitioner-assisted suicide.

21 § 5495. Voluntary consent requirement.

22 (a) Patient consent.--No POLST shall be valid without the
23 voluntary consent of the patient or a surrogate decision maker.

24 (b) Health insurance or coverage.--A health care insurer may
25 not:

26 (1) Require an individual to consent to a POLST or to
27 have a POLST as a condition for being insured.

28 (2) Charge an individual a different rate or fee whether
29 or not the individual consents to, or has, a POLST.

30 (3) Require a health care provider to have a policy to

1 offer a POLST to any individual.

2 (4) Provide a health care provider a financial
3 incentive, payment, discount or rating incentive for having a
4 policy or procedure relating to POLST completion.

5 (5) Impose a rating or reimbursement penalty if a health
6 care provider fails to achieve a target for POLST
7 completions.

8 (c) Consultation.--Notwithstanding subsection (b), a health
9 care provider may be paid for consultation with or counseling of
10 a patient concerning a POLST or offering advance health care
11 planning.

12 (d) Health care provider and health care facility
13 policies.--

14 (1) A health care provider and a health care facility
15 may not make consent to a POLST or having a POLST a condition
16 of admission to, continued occupancy at, or the provision of
17 health care services by the health care provider or a health
18 care facility.

19 (2) A health care provider and a health care facility
20 may not provide a patient or surrogate decision maker an in-
21 kind or financial incentive, payment or discount for
22 consenting to or having a POLST.

23 (3) In complying with paragraphs (1) and (2), a health
24 care provider and a health care facility may have a policy to
25 offer a POLST to appropriate individuals as part of a
26 conversation about goals of care, personal values and
27 preferences, benefits of various treatment options and
28 avoiding unwanted burden.

29 § 5496. POLST Advisory Committee.

30 (a) Appointment.--The secretary shall appoint a POLST

1 Advisory Committee, including a chairperson and vice chairperson
2 of the committee.

3 (b) Role of committee.--The committee shall advise the
4 department on POLST-related matters, including the format and
5 content of the POLST form and education about POLST.

6 (c) Composition.--

7 (1) After consulting Statewide organizations comprised
8 of relevant stakeholders, the secretary shall appoint one or
9 more representatives of the following to the committee:

10 (i) The Pennsylvania Medical Society.

11 (ii) The Hospital and Healthsystem Association of
12 Pennsylvania.

13 (iii) The Pennsylvania Homecare Association.

14 (iv) The Pennsylvania Bar Association.

15 (v) The Joint State Government Commission's Advisory
16 Committee on Decedents' Estates Laws.

17 (vi) Pennsylvania Emergency Health Services Council.

18 (vii) Pennsylvania College of Emergency Physicians.

19 (viii) Long-term care facilities and providers of
20 long-term support.

21 (ix) Patient advocates.

22 (x) Disability rights advocates.

23 (xi) Faith-based health care providers.

24 (xii) Bioethicists, including both a secular and
25 faith-based representative.

26 (2) The secretary may appoint additional individuals to
27 the committee to provide expertise and a broad representation
28 of interests.

29 (3) The secretary shall ensure that members appointed to
30 the committee include individuals with knowledge about:

1 (i) community POLST coalition efforts; and
2 (ii) nationally accepted physician orders for life-
3 sustaining treatment standards and educational resources,
4 including the National POLST Paradigm Task Force.

5 § 5497. Administration of POLST program.

6 (a) Duties.--The department shall perform the following
7 duties in consultation with the committee:

8 (1) Adopt and update a POLST form under section 5498
9 (relating to POLST form).

10 (2) Develop and update basic education materials on
11 POLST under section 5498.1 (relating to education about
12 POLST).

13 (3) Make the POLST form and its educational materials
14 available and accessible through the department's publicly
15 accessible Internet website.

16 (b) Plain language requirement.--In consultation with the
17 committee, the department shall make the POLST form and its
18 educational materials clear, concise, well-organized and
19 otherwise understandable to patients, their families, other
20 surrogate decision makers and health care providers.

21 (c) Coordination.--In the performance of its
22 responsibilities under this subchapter, the department shall
23 coordinate with other State agencies that address the special
24 needs of individuals with disabilities and older persons,
25 including the Department of Aging and the Department of Human
26 Services.

27 § 5498. POLST form.

28 (a) General rule.--In consultation with the committee, the
29 department shall adopt, and periodically update when
30 appropriate, a standard POLST form for health care practitioners

1 to issue a POLST with the voluntary consent of the patient or an
2 authorized surrogate decision maker.

3 (b) Medical order options.--

4 (1) The POLST form shall include options for a set of
5 medical orders for cardiopulmonary resuscitation and other
6 medical interventions that are determined to be appropriate
7 for a POLST.

8 (2) The POLST form shall be outcome neutral. The medical
9 order options shall range from full treatment to comfort care
10 only, with options in between.

11 (3) The POLST form may include options for nutrition and
12 hydration administered by gastric tube or intravenously or by
13 other medically administered means. If the consent is
14 provided by a surrogate decision maker, the following
15 requirements shall apply:

16 (i) Section 5456(c)(5)(iii) (relating to authority
17 of health care agent).

18 (ii) Section 5461(c) (relating to decisions by
19 health care representative).

20 (iii) Section 5462(c) (relating to duties of
21 attending physician and health care provider).

22 (4) Except as provided under section 5498.2(a)(2)
23 (relating to requirements for valid POLST), no medical order
24 option section shall be required to be completed for the
25 POLST to be valid.

26 (c) Notices.--

27 (1) The POLST form shall clearly and conspicuously state
28 that a POLST may only be issued with the voluntary consent of
29 the patient or the patient's authorized surrogate decision
30 maker and that a patient or surrogate decision maker may not

1 be compelled by a health care provider or health care insurer
2 to complete or sign a POLST.

3 (2) The POLST form may include other notices regarding
4 patient rights, health care practitioner responsibilities and
5 availability of educational information which the department,
6 in consultation with the committee, determines are
7 appropriate.

8 (d) Identification and signatures.--

9 (1) The POLST form shall provide for identification of
10 the patient, any surrogate decision maker who consents to the
11 POLST on behalf of the patient and the health care
12 practitioner who issues the POLST.

13 (2) The POLST form shall provide for the signatures of
14 the patient, any surrogate decision maker and the health care
15 practitioner who issues the POLST.

16 (e) Instructions.--The POLST form shall include instructions
17 for its completion. The instructions shall clearly convey the
18 sections required to be completed for the POLST to be valid.

19 (f) Opportunity for comment.--

20 (1) Prior to adopting the initial POLST form developed
21 after the effective date of this section, the department
22 shall transmit to the Legislative Reference Bureau notice of
23 the proposed form for publication in the next available issue
24 of the Pennsylvania Bulletin and provide an opportunity for
25 comment on the proposed form for at least 60 days after
26 publication of the notice. The following shall apply:

27 (i) In addition to submitting for publication notice
28 of the initial form in the next available issue of the
29 Pennsylvania Bulletin, the department shall serve a copy
30 of the form to the Health and Human Services Committee of

1 the Senate and the Health Committee of the House of
2 Representatives.

3 (ii) Within 60 days after the close of the comment
4 period, the department shall submit for publication a
5 subsequent notice in the next available issue of the
6 Pennsylvania Bulletin that responds to each comment the
7 department has received. In providing responses to each
8 comment, the department shall indicate the reasons for
9 adopting or rejecting the recommendations made during the
10 comment period. The department shall submit for
11 publication a final version of the POLST form in the next
12 available issue of the Pennsylvania Bulletin and on the
13 department's publicly accessible Internet website.

14 (2) The department shall comply with the procedures
15 under paragraph (1) for updates to the POLST form.

16 (3) The adoption of the initial POLST form and any
17 subsequent updates to the POLST form shall be exempt from the
18 following:

19 (i) Article II of the act of July 31, 1968 (P.L.769,
20 No.240), referred to as the Commonwealth Documents Law.

21 (ii) Sections 204(b) and 301(10) of the act of
22 October 15, 1980 (P.L.950, No.164), known as the
23 Commonwealth Attorneys Act.

24 (iii) The act of June 25, 1982 (P.L.633, No.181),
25 known as the Regulatory Review Act.

26 (iv) Section 612 of the act of April 9, 1929
27 (P.L.177, No.175), known as The Administrative Code of
28 1929.

29 (g) POLST forms.--POLST forms executed prior to the
30 effective date of this section shall be recognized as valid

1 POLST forms and shall have full force and effect as if executed
2 on or after the effective date of this section.

3 (h) Printed copies.--The POLST form may not be required to
4 be obtained exclusively from the department or any particular
5 vendor. The department shall provide a process for the POLST
6 form to be downloaded free of charge from a publicly accessible
7 Internet website.

8 § 5498.1. Education about POLST.

9 (a) General rule.--In consultation with the committee, the
10 department shall develop, and periodically update when
11 appropriate, educational materials about POLST for patients,
12 surrogate decision makers, health care providers and the public.

13 (b) Basic education.--The department shall make its basic
14 educational materials available in alternative formats that are
15 accessible to persons with a disability. The department's POLST
16 educational materials shall include basic information that
17 explains and provides guidance on the following:

18 (1) The definition of a POLST, including the types of
19 medical interventions that may be covered.

20 (2) How a POLST is an immediately actionable medical
21 order and is valid and portable across all patient settings.

22 (3) When a POLST may be useful and appropriate and when
23 a POLST may not be appropriate.

24 (4) The differences between a POLST and an advance
25 health care directive.

26 (5) The voluntary consent requirement, including a
27 patient's right to refuse to execute a POLST without adverse
28 consequences under section 5495(b) and (d) (relating to
29 voluntary consent requirement).

30 (6) The importance of a shared decision-making process

1 to assure understanding and voluntary consent by patients and
2 surrogate decision makers.

3 (7) When review of a POLST is required or recommended.

4 (8) The obligation of health care providers to comply
5 with a POLST under this subchapter.

6 (9) Legal requirements for surrogate decision making.

7 (10) Appropriate inclusion of patients, to the extent
8 possible, regardless of the patient's physical or mental
9 condition, in decision making when decisions are made on the
10 patient's behalf by surrogate decision makers.

11 (c) Training recommendations.--The department's educational
12 materials shall include recommendations for training of health
13 care practitioners and others who educate patients about POLST
14 or assist in completion of a POLST form to assure that the
15 practitioner or other individual has the practiced skills of
16 those conversations and understands the applicable law, medical
17 issues and treatments covered by a POLST. These materials shall
18 incorporate information consistent with the findings in section
19 5492(9), (10), (11), (12), (13), (14), (15) and (16) (relating
20 to legislative findings and intent).

21 (d) Other resources.--The department may provide information
22 about the availability of educational materials from other
23 sources, including nonprofit organizations that provide
24 education, training and resources for POLST programs.

25 § 5498.2. Requirements for valid POLST.

26 (a) General rule.--To be valid, a POLST shall require each
27 of the following:

28 (1) Use of the POLST form, except under sections 5498.5
29 (relating to copies of orders), 5498.15 (relating to POLST
30 executed under prior POLST form), 5498.16 (relating to POLST

1 executed under PLSWC form) and 5498.17 (relating to POLST
2 executed in another state or jurisdiction).

3 (2) Completion of the section regarding cardiopulmonary
4 resuscitation.

5 (3) Completion of the section documenting preferences
6 regarding hospitalization and preferred level of care.

7 (4) The date and signature of a health care practitioner
8 in accordance with section 5498.6 (relating to signature
9 options), except under subsection (b).

10 (5) The date and signature of the patient or a surrogate
11 decision maker in accordance with section 5498.6, except
12 under subsection (c).

13 (b) Verbal orders.--A verbal order is effective from the
14 date given without countersignature until the expiration of the
15 period of countersignature set forth under paragraph (2) or (3).
16 A health care practitioner's verbal order for a POLST shall be
17 deemed to meet the requirements of subsection (a)(2) if all of
18 the following requirements are met:

19 (1) The order is entered for a patient receiving care
20 from a health care facility.

21 (2) The order is documented on the POLST form and
22 countersigned by the health care practitioner in accordance
23 with any applicable laws and regulations governing the health
24 care facility, including a time frame in which the order must
25 be countersigned.

26 (3) No law or regulation governing the health care
27 facility establishes a time limit in which the order must be
28 countersigned, and the order is countersigned by the health
29 care practitioner within seven days.

30 (c) Verbal consent.--A surrogate decision maker's verbal

1 consent for a POLST shall be deemed to satisfy the requirements
2 of subsection (a) (4) if all of the following requirements are
3 met:

4 (1) Obtaining the signature of the surrogate decision
5 maker is not feasible in a timely manner.

6 (2) The consent is documented on the POLST form by the
7 health care facility in accordance with its policies and
8 procedures.

9 (3) The signature of the surrogate decision maker is
10 obtained as soon as feasible.

11 (d) Effectiveness.--A POLST shall be effective on the date
12 it meets the requirements of this section.

13 § 5498.3. Portability.

14 (a) General rule.--A POLST executed in accordance with this
15 subchapter shall be valid anywhere within this Commonwealth,
16 including all health care facilities, the patient's residence
17 and other care settings outside of a health care facility, and
18 while the patient is in transit from one health care facility or
19 care setting to another.

20 (b) Authority of health care practitioners.--A POLST
21 executed in accordance with this subchapter shall be valid in a
22 health care facility regardless of whether the health care
23 practitioner who signed the order has clinical privileges with
24 the health care facility.

25 (c) Other orders.--This subchapter does not prohibit a do-
26 not-resuscitate or other order issued for care within a health
27 care facility from being valid and actionable within that health
28 care facility in accordance with the laws and regulations
29 governing the health care facility.

30 § 5498.4. Team care.

1 A health care facility may designate individuals who have
2 been trained in a manner consistent with section 5498.1(c)
3 (relating to education about POLST), including nurses and social
4 workers, to participate in conversations with a patient or the
5 patient's surrogate decision maker regarding a POLST or
6 assisting in completion of the POLST form.

7 § 5498.5. Copies of orders.

8 A copy of a POLST, including a photocopy, facsimile or other
9 electronic copy, shall be as effective as the original POLST.

10 § 5498.6. Signature options.

11 (a) Options.--A signature required by section 5498.2
12 (relating to requirements for valid POLST) may be provided by a
13 hand-written signature or any other means allowed under this
14 section.

15 (b) Patient unable to sign.--If a patient is unable to sign
16 by a written signature, it shall be sufficient for:

17 (1) the patient to sign by a mark; or

18 (2) another individual to sign for the patient if that
19 patient specifically directs the other individual to sign the
20 POLST for the patient.

21 (c) Electronic signatures.--In the case of a patient
22 receiving care from a health care facility, a signature on a
23 POLST may be obtained by any electronic means that is authorized
24 by the policies and procedures of the facility and is consistent
25 with the laws governing the facility, including a digitized
26 signature and a digital signature. A copy of the POLST shall
27 show a representative image of the signature in the applicable
28 signature field.

29 § 5498.7. Standards for surrogate decision makers.

30 (a) General rule.--When making a decision about a POLST on

1 behalf of a patient, a surrogate decision maker shall comply
2 with all applicable legal requirements for health care decision
3 making by a surrogate decision maker, including those provided
4 under subsection (b), and the decisions of the surrogate
5 decision maker are subject to all applicable legal restrictions
6 on decisions by a surrogate decision maker.

7 (b) Specific laws.--Surrogate decision makers must comply
8 with the following:

9 (1) Subchapter C (relating to health care agents and
10 representatives), including:

11 (i) Section 5456(c) (relating to authority of health
12 care agent).

13 (ii) Section 5461(c) (relating to decisions by
14 health care representative).

15 (iii) Section 5462(c) (relating to duties of
16 attending physician and health care provider).

17 (2) Chapter 55 (relating to incapacitated persons).

18 (c) Minors.--A surrogate decision maker for an unemancipated
19 minor shall be subject to the requirements and restrictions
20 applicable to a health care representative for an adult when
21 making a decision about a POLST on behalf of the minor.

22 (d) Competent patient.--This section does not limit the
23 right of a competent patient to consent to a POLST.

24 § 5498.8. Revocation.

25 (a) Consent.--A patient or a surrogate decision maker acting
26 within a decision-making authority may revoke consent to all or
27 part of a POLST at any time and in any manner that communicates
28 an intent to revoke.

29 (b) Notice.--A health care provider or surrogate decision
30 maker who is informed of a revocation shall promptly communicate

1 the fact of the revocation to any attending health care provider
2 and to any health care facility from which the patient is
3 receiving care.

4 (c) Implementation.--A health care provider that is notified
5 of a POLST revocation shall record that the POLST is void in any
6 medical records containing the order that are maintained by the
7 health care provider.

8 § 5498.9. Transfer requirements.

9 (a) Notice of POLST.--A health care facility that transfers
10 a patient with a POLST to another health care facility shall
11 provide the POLST to the receiving facility and any health care
12 providers who are responsible for the patient's care during
13 transport to the receiving facility. The notice of the order
14 shall be provided prior to the transfer, or, if prior notice is
15 not feasible, as soon as feasible thereafter.

16 (b) Compliance.--The requirements of section 5498.11
17 (relating to compliance) shall apply in the event that the
18 receiving health care provider or health care provider involved
19 in the transfer is unable in good conscience to comply with the
20 POLST or the policies of the health care provider preclude
21 compliance.

22 § 5498.10. Review requirements.

23 (a) Mandatory review.--In the event a patient with a POLST
24 is admitted or transferred to a health care facility, the
25 treating health care provider at the health care facility shall
26 review the POLST as soon as feasible with the patient or the
27 patient's authorized surrogate decision maker. The POLST shall
28 remain effective unless and until modified or voided as a result
29 of the review.

30 (b) Recommended review.--In consultation with the committee,

1 the department shall develop recommendations for other
2 situations in which it is appropriate or advisable for a POLST
3 to be reviewed, giving consideration to the following
4 circumstances:

5 (1) A substantial change in the patient's health status.

6 (2) A change in the patient's goals of care or treatment
7 preferences.

8 § 5498.11. Compliance.

9 (a) Notification by attending physician or health care
10 provider.--If an attending physician or other health care
11 provider cannot in good conscience comply with a POLST or if the
12 policies of a health care provider preclude compliance with a
13 POLST, the attending physician or health care provider shall so
14 inform the patient, if the patient is competent, and any
15 surrogate decision maker who consented to the order on behalf of
16 the patient.

17 (b) Transfer.--The attending physician or health care
18 provider under subsection (a) shall make every reasonable effort
19 to assist in the transfer of the patient to another physician or
20 health care provider who will comply with the POLST.

21 (c) Liability.--If transfer under subsection (b) is
22 impossible, the provision of care necessary to sustain life to a
23 patient may not subject an attending physician or a health care
24 provider to criminal or civil liability or administrative
25 sanction for failure to carry out the POLST.

26 (d) Policies.--The department shall require health care
27 facilities to have policies and procedures for implementation of
28 a POLST.

29 § 5498.12. Emergency medical services.

30 (a) Medical command instructions.--Notwithstanding the

1 absence of a do-not-resuscitate order in a POLST, emergency
2 medical services providers shall at all times comply with the
3 instructions of an authorized medical command physician to
4 withhold or discontinue resuscitation.

5 (b) Effect of POLST do-not-resuscitate order.--

6 (1) Emergency medical services providers shall comply
7 with a do-not-resuscitate order in a POLST if made aware of
8 the order. In order to be in compliance with the do-not-
9 resuscitate order in a POLST, an emergency medical service
10 provider must:

11 (i) withhold cardiopulmonary resuscitation from the
12 patient in the event of respiratory and cardiac arrest;
13 or

14 (ii) discontinue and cease cardiopulmonary
15 resuscitation, in the event the emergency medical
16 services provider is presented with a do-not-resuscitate
17 order in a POLST after initiating cardiopulmonary
18 resuscitation.

19 (2) Emergency medical services providers shall provide
20 other medical interventions necessary and appropriate to
21 provide comfort and alleviate pain, including intravenous
22 fluids, medications, oxygen and any other intervention
23 appropriate to the level of the certification of the
24 provider, unless otherwise directed by the patient or the
25 emergency medical services provider's authorized medical
26 command physician.

27 (c) Uncertainty regarding validity or applicability of do-
28 not-resuscitate order in POLST.--

29 (1) Emergency medical services providers who in good
30 faith are uncertain about the validity or applicability of a

1 do-not-resuscitate order in a POLST shall render care in
2 accordance with their level of certification.

3 (2) Emergency medical services providers who act under
4 paragraph (1) may not be subject to civil or criminal
5 liability or administrative sanction for failure to comply
6 with a do-not-resuscitate order in a POLST.

7 (d) Uncertainty regarding validity or applicability of
8 POLST.--Emergency medical services providers are not required
9 to, but may if they deem it necessary, contact the medical
10 command physician prior to complying with a POLST.

11 § 5498.13. Immunity.

12 (a) Compliance.--A health care provider or other person may
13 not be subject to civil or criminal liability or to discipline
14 for unprofessional conduct for complying with a POLST based upon
15 the good faith assumption that the orders therein were valid
16 when made and have not been revoked or terminated.

17 (b) Noncompliance.--A health care provider or other person
18 may not be subject to civil or criminal liability or to
19 discipline for unprofessional conduct for refusing to comply
20 with a POLST on the good faith belief that:

21 (1) The POLST is not valid.

22 (2) Compliance with the POLST would be unethical or, to
23 a reasonable degree of medical certainty, would result in
24 medical care having no medical basis in addressing any
25 medical need or condition of the patient, provided that the
26 health care provider complies in good faith with sections
27 5462(c) (relating to duties of attending physician and health
28 care provider) and 5498.11 (relating to compliance).

29 (c) Other protection.--This section does not limit the
30 immunity available to a health care provider or person under

1 section 5431 (relating to liability) or 5498.12(c)(2) (relating
2 to emergency medical services).

3 § 5498.14. Conflict with advance health care directive.

4 If a POLST conflicts with a provision of an advance health
5 care directive, the provision of the instrument latest in date
6 of execution shall prevail to the extent of the conflict.

7 § 5498.15. POLST executed under prior POLST form.

8 A POLST executed on a POLST form that was valid when executed
9 shall remain valid even if the department subsequently adopts a
10 revised form.

11 § 5498.16. POLST executed under PLSWC form.

12 (a) Validity.--Except as provided under subsection (b), a
13 POLST executed on the PLSWC form prior to the adoption of a
14 POLST form under this subchapter is effective to the same extent
15 as it would be effective if executed on the POLST form.

16 (b) Emergency medical services providers.--Emergency medical
17 services providers are not required to, but may if they deem it
18 necessary, contact the medical command physician prior to
19 complying with a POLST executed on the PLSWC form.

20 (c) Immunity.--For purposes of the immunity under sections
21 5431 (relating to liability) and 5498.13 (relating to immunity),
22 a POLST executed on the PLSWC form shall be deemed to be a POLST
23 executed under this subchapter.

24 § 5498.17. POLST executed in another state or jurisdiction.

25 (a) Validity.--Except as provided under subsection (b), a
26 health care provider may comply with a POLST, or its substantial
27 equivalent executed under the laws of another state or
28 jurisdiction and in conformity with the laws of that state or
29 jurisdiction, if:

30 (1) the order meets the requirements of section

1 5498.2(a)(2), (3) and (4) (relating to requirements for valid
2 POLST); and

3 (2) the health care provider consults, as soon as
4 feasible, with the patient if competent and any surrogate
5 decision maker regarding continued compliance with the order.

6 (b) Exception.--Subsection (a) may not apply to orders
7 executed in another state or jurisdiction to the extent that the
8 order directs procedures or the withholding or withdrawal of
9 procedures under circumstances that are inconsistent with the
10 laws of this Commonwealth, including section 5498.7 (relating to
11 standards for surrogate decision makers).

12 (c) Immunity.--For purposes of the immunity under sections
13 5431 (relating to liability) and 5498.13 (relating to immunity),
14 a POLST, or its substantial equivalent that was executed under
15 the laws of another state or jurisdiction and is valid under
16 subsections (a) and (b), shall be deemed to be a POLST executed
17 under this subchapter.

18 § 5498.18. POLST registry study.

19 (a) Study.--In consultation with the committee and the
20 Pennsylvania eHealth Partnership Authority, the department shall
21 study the feasibility and cost of creating an Internet-based
22 POLST registry that would allow health care providers caring for
23 a patient to obtain a current POLST for the patient.

24 (b) Report.--The department shall report the results of the
25 study to the Health and Human Services Committee of the Senate
26 and the Health Committee of the House of Representatives. The
27 department shall report the status of the study to the
28 committees at least every 180 days until the final results are
29 reported.

30 Section 7. This act shall take effect as follows:

1 (1) The following provisions shall take effect
2 immediately:
3 (i) This section.
4 (ii) The addition of 20 Pa.C.S. § 5496.
5 (2) The remainder of this act shall take effect in 90
6 days.