
Health Care & Wellness Committee

HB 2166

Brief Description: Increasing access to portable orders for life-sustaining treatment.

Sponsors: Representatives Paul and Shavers.

Brief Summary of Bill

- Requires the Department of Health (DOH) to establish guidelines and protocols for emergency medical personnel to recognize alternative evidence that a person has executed a Portable Order for Life Sustaining Treatment (POLST) form and that the person does not wish to have resuscitation efforts.
- Requires the DOH to establish and maintain a statewide registry containing POLST forms submitted by Washington residents.

Hearing Date: 1/16/24

Staff: Kim Weidenaar (786-7120).

Background:

There are several types of documents that individuals may use to declare their preferences for health care and mental health decisions in the event that they become incapacitated.

- An advance directive is a document that expresses an individual's preferences regarding the withholding or withdrawal of life-sustaining treatment if he or she is in a terminal condition or permanent unconscious state.
- A mental health advance directive is a document that either provides instructions or declares an individual's preferences regarding his or her mental health treatment in the event of incapacitation. These documents may also appoint another person to make decisions regarding mental health treatment on the individual's behalf in the event of

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incapacitation.

- A durable power of attorney for health care is a document that appoints an agent to provide informed consent for health care decisions on behalf of another individual.
- The Portable Orders for Life Sustaining Treatment (POLST) form is a standardized form that is signed by an individual's physician, physician assistant (PA), or advanced registered nurse practitioner (ARNP) to instruct emergency medical personnel or staff in residential care settings on the type of care that an individual wishes to have in end-of-life situations.

The Department of Health (DOH) and the Washington State Medical Association implemented a POLST form, which is designed for seriously ill individuals and those who are in poor health. The POLST form allows individuals through their health care provider to indicate whether they would like to receive cardiopulmonary resuscitation (CPR), if necessary, as well as the level of medical interventions they would like to receive. The DOH adopted guidelines and protocols for how emergency medical personnel must respond when tending to a person who has signed a written directive or durable power of attorney requesting that he or she not receive certain emergency medical treatment.

In 2006 the DOH was directed to establish and maintain a statewide registry of health care declarations submitted by Washington residents on a secure website, which included advance directives, durable powers of attorney for health care, mental health advance directives, and POLST forms. Funding for the registry was eliminated in 2011.

Summary of Bill:

The DOH must establish guidelines and protocols for emergency medical personnel to recognize types of alternative evidence that a person has executed the POLST form and that the person does not wish to have resuscitation efforts. Types of alternative evidence may include a standardized necklace or bracelet, physical card, or electronic application-based form.

The DOH must adopt standards for the endorsement of types of alternative evidence, which must require that the alternative evidence only be issued after the entity producing the alternative evidence is presented with a properly executed POLST form. The standards must require that the alternative evidence include the person's name, date of birth, and "WA DNR" or "WA Do Not Resuscitate." The DOH must maintain a registry of entities that have received an endorsement for their types of alternative evidence. The DOH must inform the public of the types of endorsed alternate evidence through its website and informational materials, which must include entities that are registered as producers of endorsed types of alternative evidence and the producers' contact information.

The DOH (or a DOH contracted entity) must establish and maintain a statewide registry containing the POLST forms submitted by Washington residents, which must be designed to comply with state and federal requirements related to patient confidentiality. The DOH must digitally reproduce and store POLST forms in the registry. The DOH may establish standards for individuals to submit digitally reproduced POLST forms directly to the registry, but the DOH

is not required to review the POLST forms to determine if they comply with all requirements.

An individual may submit a POLST form to the DOH to be digitally reproduced and stored in the registry. Failure to submit a POLST form to DOH does not affect the validity of the form. Failure to notify the DOH of a valid revocation of a POLST form does not affect the validity of the revocation. The entry of a POLST form in the registry does not affect the validity of the POLST form; take the place of any existing requirements necessary to make the form legal; or create a presumption regarding the validity of the form. The DOH must prescribe a procedure for an individual to revoke POLST forms contained in the registry.

The registry must:

- be maintained in a secure database accessible through a website maintained by the DOH or its contractor;
- send annual messages to individuals that have submitted POLST forms to request that they review the registry materials to ensure they are current;
- provide individuals who have submitted a POLST form with access to their forms and the ability to revoke the form at all times; and
- provide the following persons and entities with access to the registry at all times: the personal representatives of individuals who have submitted a POLST form to the registry, attending physicians, advanced registered nurse practitioners, health care providers acting under the direction of a physician or an advanced registered nurse practitioner, including an emergency medical technician or paramedic, and health care facilities.

The DOH may accept donations, grants, gifts, or other forms of voluntary contributions to support activities related to the creation and maintenance of the registry and public education campaigns. All receipts from donations made, and other contributions and appropriations for creating and maintaining the registry and statewide public education campaigns must be deposited into the General Fund. These moneys may be spent only after appropriation. The department may adopt rules as necessary to implement these provisions.

Portable Orders for Life Sustaining Treatment forms are removed from the types of health care declarations that an individual may submit to the existing, unfunded registry.

Appropriation: None.

Fiscal Note: Requested on January 10, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.