

By Senator Brandes

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1 A bill to be entitled
2 An act relating to physician orders for life-
3 sustaining treatment; creating s. 401.451, F.S.;
4 establishing the Physician Orders for Life-Sustaining
5 Treatment (POLST) Program within the Department of
6 Health; defining terms; providing duties of the
7 department; providing requirements for POLST forms;
8 providing a restriction on the use of POLST forms;
9 requiring periodic review of POLST forms; providing
10 for the revocation of POLST forms under certain
11 circumstances; authorizing expedited judicial
12 intervention under certain circumstances; specifying
13 which document takes precedence when directives in
14 POLST forms conflict with other advance directives;
15 providing limited immunity for legal representatives
16 and specified health care providers acting in good
17 faith in reliance on POLST forms; specifying
18 additional requirements for POLST forms executed on
19 behalf of minor patients under certain circumstances;
20 requiring the review of a POLST form upon the transfer
21 of a patient; prohibiting POLST forms from being
22 required as a condition for treatment or admission to
23 health care facilities; providing that the presence or
24 absence of POLST forms does not affect, impair, or
25 modify certain insurance contracts; declaring a POLST
26 form invalid if it is executed in exchange for payment
27 or other remuneration; providing construction;
28 creating s. 408.064, F.S.; defining terms; requiring
29 the Agency for Health Care Administration to establish

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30 and maintain a database of compassionate and
31 palliative care plans by a specified date; providing
32 duties of the agency; authorizing the agency to
33 subscribe to or participate in a public or private
34 clearinghouse in lieu of establishing and maintaining
35 an independent database; amending ss. 400.142 and
36 400.487, F.S.; authorizing specified personnel to
37 withhold or withdraw cardiopulmonary resuscitation if
38 presented with a POLST form that contains an order not
39 to resuscitate the patient; providing immunity from
40 criminal prosecution or civil liability to such
41 personnel for such actions; providing that the absence
42 of a POLST form does not preclude physicians or home
43 health agency personnel from withholding or
44 withdrawing cardiopulmonary resuscitation under
45 certain conditions; amending s. 400.605, F.S.;
46 requiring the Department of Elderly Affairs, in
47 consultation with the agency, to adopt by rule
48 procedures for the implementation of POLST forms in
49 hospice care; amending s. 400.6095, F.S.; authorizing
50 hospice care teams to withhold or withdraw
51 cardiopulmonary resuscitation if presented with POLST
52 forms that contain an order not to resuscitate;
53 providing immunity from criminal prosecution or civil
54 liability to hospice staff for such actions; providing
55 that the absence of a POLST form does not preclude
56 physicians from withholding or withdrawing
57 cardiopulmonary resuscitation; amending s. 401.35,
58 F.S.; requiring the Department of Health to establish

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59 circumstances and procedures for honoring certain
60 POLST forms; amending s. 401.45, F.S.; authorizing
61 emergency medical personnel to withhold or withdraw
62 cardiopulmonary resuscitation or other medical
63 interventions if presented with POLST forms that
64 contain an order not to resuscitate; amending s.
65 429.255, F.S.; authorizing assisted living facility
66 personnel to withhold or withdraw cardiopulmonary
67 resuscitation or the use of an automated external
68 defibrillator if presented with POLST forms that
69 contain an order not to resuscitate; providing
70 immunity from criminal prosecution or civil liability
71 to facility staff and facilities for such actions;
72 providing that the absence of a POLST form does not
73 preclude physicians from withholding or withdrawing
74 cardiopulmonary resuscitation or the use of an
75 automated external defibrillator; amending s. 429.73,
76 F.S.; requiring the Department of Elderly Affairs to
77 adopt rules for the implementation of POLST forms in
78 adult family-care homes; authorizing providers of such
79 homes to withhold or withdraw cardiopulmonary
80 resuscitation if presented with POLST forms that
81 contain an order not to resuscitate; providing
82 immunity from criminal prosecution or civil liability
83 to providers for such actions; amending s. 456.072,
84 F.S.; authorizing certain licensees to withhold or
85 withdraw cardiopulmonary resuscitation or the use of
86 an automated external defibrillator if presented with
87 orders not to resuscitate or POLST forms that contain

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

103
104 Be It Enacted by the Legislature of the State of Florida:

105
106 Section 1. Section 401.451, Florida Statutes, is created to
107 read:

108 401.451 Physician Orders for Life-Sustaining Treatment
109 Program.—The Physician Orders for Life-Sustaining Treatment
110 Program is established within the Department of Health to
111 implement and administer the development and use of physician
112 orders for life-sustaining treatment consistent with this
113 section and to collaborate with the Agency for Health Care
114 Administration in the implementation and operation of the
115 Clearinghouse for Compassionate and Palliative Care Plans
116 created under s. 408.064.

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

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

120 (b) "Agency" means the Agency for Health Care
121 Administration.

122 (c) "Clearinghouse for Compassionate and Palliative Care
123 Plans" or "clearinghouse" has the same meaning as provided in s.
124 408.064.

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

127 (e) "Examining physician" means a physician who examines a
128 patient who wishes, or whose legal representative wishes, to
129 execute a POLST form; who attests to the ability of the patient
130 or the patient's legal representative to make and communicate
131 health care decisions; who signs the POLST form; and who attests
132 to the execution of the POLST form by the patient or by the
133 patient's legal representative.

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

136 (g) "Legal representative" means a patient's legally
137 authorized health care surrogate or proxy as provided in chapter
138 765, a patient's court-appointed guardian as provided in chapter
139 744 who has been delegated authority to make health care
140 decisions on behalf of the patient, an attorney in fact under a
141 durable power of attorney as provided in chapter 709 who has
142 been delegated authority to make health care decisions on behalf
143 of the patient, or a patient's parent if the patient is under 18
144 years of age.

145 (h) "Order not to resuscitate" means an order issued under

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146 s. 401.45(3).

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

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

153 (a) Adopt rules to implement and administer the POLST
154 program.

155 (b) Prescribe a standardized POLST form.

156 (c) Provide the POLST form in an electronic format on the
157 department's website and prominently state on the website the
158 requirements for a POLST form as specified under paragraph

159 (3) (a).

160 (d) Consult with health care professional licensing groups,
161 provider advocacy groups, medical ethicists, and other
162 appropriate stakeholders on the development of rules and forms
163 to implement and administer the POLST program.

164 (e) Collaborate with the agency to develop and maintain the
165 clearinghouse.

166 (f) Ensure that department staff receive ongoing training
167 on the POLST program and are aware of the availability of POLST
168 forms.

169 (g) Recommend a statewide, uniform process for identifying
170 a patient who has, or whose legal representative has, executed a
171 POLST form and for providing the contact information for the
172 examining physician to the health care providers currently
173 treating the patient.

174 (h) Adopt POLST-related continuing education requirements

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175 for health care providers licensed by the department.

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

179 (3) POLST FORM.—

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

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

192 2. Includes the signatures of the patient and the patient's
193 examining physician or, if the patient is incapacitated or a
194 minor, the patient's legal representative and the patient's
195 examining physician. The POLST form may be executed only after
196 the examining physician consults with the patient or the
197 patient's legal representative, as appropriate;

198 3. Prominently states that completion of a POLST form is
199 voluntary, that the execution or use of a POLST form may not be
200 required as a condition for medical treatment, and that a POLST
201 form may not be given effect if the patient is conscious and
202 competent to make health care decisions;

203 4. Prominently provides in a conspicuous location on the

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204 form a space for the patient's examining physician to attest
205 that, in his or her clinical judgment and with good faith, at
206 the time the POLST form is completed and signed, the patient has
207 the ability to make and communicate health care decisions or, if
208 the patient is incapacitated or a minor, that the patient's
209 legal representative has such ability;

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

215 6. Identifies the medical condition or conditions, provided
216 by the patient's examining physician, that necessitate the POLST
217 form.

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

225 (c) Periodic review of a POLST form.—At a minimum, the
226 patient's examining physician must review the patient's POLST
227 form with the patient or the patient's legal representative, as
228 appropriate, when the patient:

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

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

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233 3. Experiences a substantial change in his or her condition
234 as determined by the patient's examining physician, in which
235 case the review must occur within 24 hours after the substantial
236 change; or

237 4. Expresses an intent to change his or her medical
238 treatment preferences.

239 (d) Revocation of a POLST form.—

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

244 2. The execution of a POLST form by a patient and the
245 patient's examining physician or, if the patient is
246 incapacitated or a minor, by the patient's legal representative
247 and the patient's examining physician under this section
248 automatically revokes all POLST forms previously executed by the
249 patient.

250 (e) Review of a legal representative's decision on a POLST
251 form.—If a family member of the patient, the health care
252 facility providing services to the patient, or the patient's
253 physician who may reasonably be expected to be affected by the
254 patient's POLST form directives believes that directives
255 executed by the patient's legal representative are in conflict
256 with the patient's prior expressed desires regarding end-of-life
257 care, the family member, facility, or physician may seek
258 expedited judicial intervention pursuant to the Florida Probate
259 Rules.

260 (f) Conflicting advance directives.—To the extent that a
261 directive made on a patient's POLST form conflicts with another

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262 advance directive of the patient which addresses a substantially
263 similar health care condition or treatment, the document most
264 recently signed by the patient takes precedence. Such directives
265 may include, but are not limited to:

266 1. A living will.

267 2. A health care power of attorney.

268 3. A POLST form for the specific medical condition or
269 treatment.

270 4. An order not to resuscitate.

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

272 (a) An individual acting in good faith as a legal
273 representative who executes a POLST form on behalf of an
274 incapacitated patient or a minor patient in accordance with this
275 section and rules adopted by the department is not subject to
276 criminal prosecution or civil liability for executing the POLST
277 form.

278 (b) A licensee, physician, medical director, emergency
279 medical technician, paramedic, or registered nurse who in good
280 faith complies with a POLST form is not subject to criminal
281 prosecution or civil liability for complying with the POLST
282 form, and has not engaged in negligent or unprofessional conduct
283 as a result of carrying out the directives of a POLST form
284 executed in accordance with this section and rules adopted by
285 the department.

286 (5) POLST FORM FOR A MINOR PATIENT.—If a medical order on a
287 POLST form executed for a minor patient directs that life-
288 sustaining treatment may be withheld from the minor patient, the
289 order must include certifications by the patient's examining
290 physician and a health care provider other than the examining

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291 physician stating that, in their clinical judgment, an order to
292 withhold medical treatment is in the best interest of the minor
293 patient. A POLST form for a minor patient must be signed by the
294 minor patient's legal representative. The minor patient's
295 examining physician must certify the basis for the authority of
296 the minor patient's legal representative to execute the POLST
297 form on behalf of the minor patient, including the legal
298 representative's compliance with the relevant provisions of
299 chapter 744 or chapter 765.

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

311 (7) POLST FORM NOT A PREREQUISITE.—A POLST form may not be
312 a prerequisite for receiving medical services or for admission
313 to a health care facility. A health care facility or health care
314 provider may not require a person to complete, revise, or revoke
315 a POLST form as a condition of receiving medical services or
316 treatment or as a condition of admission. The execution,
317 revision, or revocation of a POLST form must be a voluntary
318 decision of the patient or, if the patient is incapacitated or a
319 minor, the patient's legal representative.

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

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

330 (10) CONSTRUCTION.—This section may not be construed to
331 condone, authorize, or approve mercy killing or euthanasia. The
332 Legislature does not intend that this act be construed as
333 authorizing an affirmative or deliberate act to end a person's
334 life, except to allow the natural process of dying.

335 Section 2. Section 408.064, Florida Statutes, is created to
336 read:

337 408.064 Clearinghouse for Compassionate and Palliative Care
338 Plans.—

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

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

342 (b) "Clearinghouse for Compassionate and Palliative Care
343 Plans" or "clearinghouse" means the state's electronic database
344 of compassionate and palliative care plans submitted by
345 residents of this state and managed by the agency pursuant to
346 this section.

347 (c) "Compassionate and palliative care plan" or "plan"
348 means an end-of-life document or medical directive document

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349 recognized by this state and executed by a resident of this
350 state, including, but not limited to, an advance directive, an
351 order not to resuscitate, a physician order for life-sustaining
352 treatment, or a health care surrogate designation.

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

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

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

358 (g) "Physician order for life-sustaining treatment" or
359 "POLST" means an order issued pursuant to s. 401.451 which
360 specifies a patient with an end-stage condition and provides
361 directions for that patient's medical treatment and care under
362 certain conditions.

363 (2) ELECTRONIC DATABASE.—The Agency for Health Care
364 Administration shall:

365 (a) By January 1, 2019, establish and maintain the
366 Clearinghouse for Compassionate and Palliative Care Plans, a
367 reliable and secure database consisting of compassionate and
368 palliative care plans submitted by residents of this state which
369 is accessible to health care providers, health care facilities,
370 and other authorized individuals through a secure electronic
371 portal. The clearinghouse must allow the electronic submission,
372 storage, indexing, and retrieval of such plans and allow access
373 to them by the treating health care providers of the patients.

374 (b) Develop and maintain a validation system that confirms
375 the identity of the health care facility, health care provider,
376 or other authorized individual seeking the retrieval of a plan
377 and provides privacy protections that meet all state and federal

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378 privacy and security standards for the release of a patient's
379 personal and medical information to a third party.

380 (c) Consult with compassionate and palliative care
381 providers, health care facilities, and residents of this state
382 as necessary and appropriate to facilitate the development and
383 implementation of the clearinghouse.

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

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

392 (f) Provide training to health care providers and health
393 care facilities in this state on how to access plans in the
394 clearinghouse.

395 (3) ALTERNATIVE IMPLEMENTATION.—In lieu of establishing and
396 maintaining the clearinghouse, the agency may subscribe to or
397 otherwise participate in a database operated by a public or
398 private entity if that database meets the requirements of this
399 section. The alternative database must operate on a statewide
400 basis in this state, and may operate on a nationwide or
401 regionwide basis.

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

404 400.142 Emergency medication kits; orders not to
405 resuscitate.—

406 (3) Facility staff may withhold or withdraw cardiopulmonary

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407 resuscitation if presented with an order not to resuscitate
408 executed pursuant to s. 401.45 or a physician order for life-
409 sustaining treatment (POLST) form executed pursuant to s.
410 401.451 which contains an order not to resuscitate. Facility
411 staff and facilities are not subject to criminal prosecution or
412 civil liability, or considered to have engaged in negligent or
413 unprofessional conduct, for withholding or withdrawing
414 cardiopulmonary resuscitation pursuant to such an order or a
415 POLST form. The absence of an order not to resuscitate executed
416 pursuant to s. 401.45 or a POLST form executed pursuant to s.
417 401.451 does not preclude a physician from withholding or
418 withdrawing cardiopulmonary resuscitation as otherwise
419 authorized ~~permitted~~ by law.

420 Section 4. Section 400.487, Florida Statutes, is amended to
421 read:

422 400.487 Home health service agreements; physician's,
423 physician assistant's, and advanced registered nurse
424 practitioner's treatment orders; patient assessment;
425 establishment and review of plan of care; provision of services;
426 orders not to resuscitate; physician orders for life-sustaining
427 treatment.—

428 (1) Services provided by a home health agency must be
429 covered by an agreement between the home health agency and the
430 patient or the patient's legal representative specifying the
431 home health services to be provided, the rates or charges for
432 services paid with private funds, and the sources of payment,
433 which may include Medicare, Medicaid, private insurance,
434 personal funds, or a combination thereof. A home health agency
435 providing skilled care must make an assessment of the patient's

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436 needs within 48 hours after the start of services.

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

452 (3) A home health agency shall arrange for supervisory
453 visits by a registered nurse to the home of a patient receiving
454 home health aide services in accordance with the patient's
455 direction, approval, and agreement to pay the charge for the
456 visits.

457 (4) Each patient has the right to be informed of and to
458 participate in the planning of his or her care. Each patient
459 must be provided, upon request, a copy of the plan of care
460 established and maintained for that patient by the home health
461 agency.

462 (5) If ~~When~~ nursing services are ordered, the home health
463 agency to which a patient has been admitted for care must
464 provide the initial admission visit, all service evaluation

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465 visits, and the discharge visit by a direct employee. Services
466 provided by others under contractual arrangements to a home
467 health agency must be monitored and managed by the admitting
468 home health agency. The admitting home health agency is fully
469 responsible for ensuring that all care provided through its
470 employees or contract staff is delivered in accordance with this
471 part and applicable rules.

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

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

487 Section 5. Paragraph (e) of subsection (1) of section
488 400.605, Florida Statutes, is amended to read:

489 400.605 Administration; forms; fees; rules; inspections;
490 fines.—

491 (1) The agency, in consultation with the department, may
492 adopt rules to administer the requirements of part II of chapter
493 408. The department, in consultation with the agency, shall by

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494 rule establish minimum standards and procedures for a hospice
495 pursuant to this part. The rules must include:

496 (e) Procedures relating to the implementation of advance
497 ~~advanced~~ directives; physician orders for life-sustaining
498 treatment (POLST) forms executed pursuant to s. 401.451; and
499 orders not to resuscitate ~~do not resuscitate orders.~~

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

502 400.6095 Patient admission; assessment; plan of care;
503 discharge; death.—

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

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

522 401.35 Rules.—The department shall adopt rules, including

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523 definitions of terms, necessary to carry out the purposes of
524 this part.

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

534 Section 8. Paragraph (a) of subsection (3) of section
535 401.45, Florida Statutes, is amended to read:

536 401.45 Denial of emergency treatment; civil liability.—

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

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552 provided in chapter 765, court-appointed guardian as provided in
553 chapter 744, or attorney in fact under a durable power of
554 attorney as provided in chapter 709 or, if the patient is a
555 minor, the patient's parent or legal guardian. The court-
556 appointed guardian or attorney in fact must have been delegated
557 authority to make health care decisions on behalf of the
558 patient.

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

561 429.255 Use of personnel; emergency care.—

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

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

583 429.73 Rules and standards relating to adult family-care
584 homes.—

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

597 Section 11. Present subsections (7) and (8) of section
598 456.072, Florida Statutes, are redesignated as subsections (8)
599 and (9), respectively, and a new subsection (7) is added to that
600 section, to read:

601 456.072 Grounds for discipline; penalties; enforcement.—

602 (7) A licensee may withhold or withdraw cardiopulmonary
603 resuscitation or the use of an automated external defibrillator
604 if presented with an order not to resuscitate executed pursuant
605 to s. 401.45 or a physician order for life-sustaining treatment
606 (POLST) form executed pursuant to s. 401.451 which contains an
607 order not to resuscitate. The department shall adopt rules
608 providing for the implementation of such orders. A licensee is
609 not subject to criminal prosecution or civil liability, and is

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610 not considered to have engaged in negligent or unprofessional
611 conduct, for withholding or withdrawing cardiopulmonary
612 resuscitation or the use of an automated external defibrillator,
613 or otherwise carrying out an order in an order not to
614 resuscitate executed pursuant to s. 401.45 or a POLST form
615 executed pursuant to s. 401.451, pursuant to the order not to
616 resuscitate or the POLST form and pursuant to rules adopted by
617 the department. The absence of an order not to resuscitate
618 executed pursuant to s. 401.45 or a POLST form executed pursuant
619 to s. 401.451 does not preclude a licensee from withholding or
620 withdrawing cardiopulmonary resuscitation or the use of an
621 automated external defibrillator or otherwise carrying out a
622 medical order authorized by law.

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

625 765.205 Responsibility of the surrogate.—

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

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

633 Section 13. This act shall take effect July 1, 2018.