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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
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The Committee on Health Policy (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete line 205

and insert:

Section 1. Paragraph (1) of subsection (3) of section 395.1041, Florida Statutes, is amended to read:

395.1041 Access to emergency services and care.—

(3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF FACILITY OR HEALTH CARE PERSONNEL.—

(1) Hospital personnel may withhold or withdraw



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11 cardiopulmonary resuscitation if presented with an order not to
12 resuscitate executed pursuant to s. 401.45 or a Physician Order
13 for Life Sustaining Treatment (POLST). Facility staff and
14 facilities shall not be subject to criminal prosecution or civil
15 liability, nor be considered to have engaged in negligent or
16 unprofessional conduct, for withholding or withdrawing
17 cardiopulmonary resuscitation pursuant to either ~~such an~~ order.
18 The absence of an order not to resuscitate executed pursuant to
19 s. 401.45 or a POLST does not preclude a physician from
20 withholding or withdrawing cardiopulmonary resuscitation as
21 otherwise permitted by law.

22 Section 2. Subsection (3) of section 400.142, Florida
23 Statutes, is amended to read

24 400.142 Emergency medication kits; orders not to
25 resuscitate.—

26 (3) Facility staff may withhold or withdraw cardiopulmonary
27 resuscitation if presented with an order not to resuscitate
28 executed pursuant to s. 401.45 or a Physician Order for Life
29 Sustaining Treatment (POLST). Facility staff and facilities are
30 not subject to criminal prosecution or civil liability, or
31 considered to have engaged in negligent or unprofessional
32 conduct, for withholding or withdrawing cardiopulmonary
33 resuscitation pursuant to either ~~such~~ order. The absence of an
34 order not to resuscitate executed pursuant to s. 401.45 or a
35 POLST does not preclude a physician from withholding or
36 withdrawing cardiopulmonary resuscitation as otherwise permitted
37 by law.

38 Section 3. Subsection (7) of section 400.487, Florida
39 Statutes, is amended to read:



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40 400.487 Home health service agreements; physician's,
41 physician assistant's, and advanced registered nurse
42 practitioner's treatment orders; patient assessment;
43 establishment and review of plan of care; provision of services;
44 orders not to resuscitate; physician orders for life sustaining
45 treatment.—

46 (7) Home health agency personnel may withhold or withdraw
47 cardiopulmonary resuscitation if presented with an order not to
48 resuscitate executed pursuant to s. 401.45 or a Physician Order
49 for Life Sustaining Treatment (POLST). The agency shall adopt
50 rules providing for the implementation of such orders. Home
51 health personnel and agencies shall not be subject to criminal
52 prosecution or civil liability, nor be considered to have
53 engaged in negligent or unprofessional conduct, for withholding
54 or withdrawing cardiopulmonary resuscitation pursuant to such
55 orders ~~an order~~ and rules adopted by the agency.

56 Section 4. Paragraph (e) of subsection (1) of section
57 400.605, Florida Statutes, is amended to read:

58 400.605 Administration; forms; fees; rules; inspections;
59 fines.—

60 (1) The agency, in consultation with the department, may
61 adopt rules to administer the requirements of part II of chapter
62 408. The department, in consultation with the agency, shall by
63 rule establish minimum standards and procedures for a hospice
64 pursuant to this part. The rules must include:

65 (e) Procedures relating to the implementation of advanced
66 directives; physician orders for life sustaining treatments; and
67 do-not-resuscitate orders.

68 Section 5. Subsection (8) of section 400.6095, Florida



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69 Statutes, is amended to read:

70 400.6095 Patient admission; assessment; plan of care;
71 discharge; death.—

72 (8) The hospice care team may withhold or withdraw
73 cardiopulmonary resuscitation if presented with an order not to
74 resuscitate executed pursuant to s. 401.45 or a Physician Order
75 for Life Sustaining Treatment (POLST). The department shall
76 adopt rules providing for the implementation of such orders.
77 Hospice staff shall not be subject to criminal prosecution or
78 civil liability, nor be considered to have engaged in negligent
79 or unprofessional conduct, for withholding or withdrawing
80 cardiopulmonary resuscitation pursuant to such an order and
81 applicable rules. The absence of an order to resuscitate
82 executed pursuant to s. 401.45 or a POLST does not preclude a
83 physician from withholding or withdrawing cardiopulmonary
84 resuscitation as otherwise permitted by law.

85 Section 6. Subsection (4) of section 401.35, Florida
86 Statutes, is amended to read:

87 401.35 Rules.—The department shall adopt rules, including
88 definitions of terms, necessary to carry out the purposes of
89 this part.

90 (4) The rules must establish circumstances and procedures
91 under which emergency medical technicians and paramedics may
92 honor orders by the patient's physician not to resuscitate and a
93 Physician's Order for Life Sustaining Treatment (POLST) and the
94 documentation and reporting requirements for handling such
95 requests.

96 Section 7. Paragraphs (a) and (c) of subsection (3) of
97 section 401.45, Florida Statutes, are amended to read:



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98 401.45 Denial of emergency treatment; civil liability.—

99 (3) (a) Resuscitation or other forms of medical intervention

100 may be withheld or withdrawn from a patient by an emergency
101 medical technician, ~~or paramedic,~~ or other health care
102 professional if evidence of a Physician Life Sustaining Order
103 (POLST) or an order not to resuscitate is presented to that
104 professional. A POLST, to be valid , must be on the form adopted
105 by rule of the department, must be signed by the patient's
106 physician, based on consultation with the patient's guardian or
107 legally authorized proxy or surrogate.~~by the patient's physician~~
108 ~~is presented to the emergency medical technician or paramedic.~~

109 An order not to resuscitate, to be valid, must be on the form
110 adopted by rule of the department. The form must be signed by
111 the patient's physician and by the patient or, if the patient is
112 incapacitated, the patient's health care surrogate or proxy as
113 provided in chapter 765, court-appointed guardian as provided in
114 chapter 744, or attorney in fact under a durable power of
115 attorney as provided in chapter 709. The court-appointed
116 guardian or attorney in fact must have been delegated authority
117 to make health care decisions on behalf of the patient.

118 (c) The department, in consultation with the Department of
119 Elderly Affairs and the Agency for Health Care Administration,
120 shall develop a standardized do-not-resuscitate identification
121 system with devices that signify, when carried or worn, that the
122 possessor is a patient for whom a physician has issued an order
123 not to administer cardiopulmonary resuscitation. The department
124 may charge a reasonable fee to cover the cost of producing and
125 distributing such identification devices. Use of such devices
126 shall be voluntary.



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127 Section 8. Subsection (4) of section 429.255, Florida
128 Statutes, is amended to read:

129 429.255 Use of personnel; emergency care.—

130 (4) Facility staff may withhold or withdraw cardiopulmonary
131 resuscitation or the use of an automated external defibrillator
132 if presented with an order not to resuscitate executed pursuant
133 to s. 401.45 or a Physician Life Sustaining Order (POLST). The
134 department shall adopt rules providing for the implementation of
135 such orders. Facility staff and facilities shall not be subject
136 to criminal prosecution or civil liability, nor be considered to
137 have engaged in negligent or unprofessional conduct, for
138 withholding or withdrawing cardiopulmonary resuscitation or use
139 of an automated external defibrillator pursuant to such orders
140 ~~an order~~ and rules adopted by the department. The absence of an
141 order to resuscitate executed pursuant to s. 401.45 or a POLST
142 does not preclude a physician from withholding or withdrawing
143 cardiopulmonary resuscitation or use of an automated external
144 defibrillator as otherwise permitted by law.

145 Section 9. Subsection (3) of section 429.73, Florida
146 Statutes, is amended to read:

147 429.73 Rules and standards relating to adult family-care
148 homes.—

149 (3) The department shall adopt rules providing for the
150 implementation of orders not to resuscitate and Physician Orders
151 for Life Sustaining Treatment (POLST). The provider may withhold
152 or withdraw cardiopulmonary resuscitation if presented with an
153 order not to resuscitate executed pursuant to s. 401.45 or a
154 POLST. The provider shall not be subject to criminal prosecution
155 or civil liability, nor be considered to have engaged in



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156 negligent or unprofessional conduct, for withholding or
157 withdrawing cardiopulmonary resuscitation pursuant to such
158 orders ~~an order~~ and applicable rules.

159 Section 10. Paragraph (c) of subsection (1) of section
160 765.205, Florida Statutes, is amended to read:

161 765.205 Responsibility of the surrogate.—

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

165 (c) Provide written consent using an appropriate form
166 whenever consent is required, including a physician's order not
167 to resuscitate or Physician Orders for Life Sustaining Treatment
168 (POLST).

169 ===== T I T L E A M E N D M E N T =====

170 And the title is amended as follows:

171 Delete line 59

172 and insert:

173 training relating to the clearinghouse; amending s.
174 395.1041, F.S.; authorizing hospital personnel to withhold or
175 withdraw cardiopulmonary resuscitation if an individual has a
176 Physician Order for Life Sustaining Treatment; amending s.
177 400.142, F.S., authorizing nursing home facility staff to
178 withhold or withdraw cardiopulmonary resuscitation if an
179 individual has a Physician Order for Life Sustaining Treatment;
180 amending s. 400.487, F.S.; authorizing home health agency
181 personnel to withhold or withdraw cardiopulmonary resuscitation
182 if an individual has a Physician Order for Life Sustaining
183 Treatment; amending s. 400.605, F.S.; requiring implementation
184 procedures for Physician Orders for Life Sustaining Treatment in



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185 hospice care; amending s. 400.6095, F.S.; authorizing a hospice
186 care team to withhold or withdraw cardiopulmonary resuscitation
187 if an individual has a Physician Order for Life Sustaining
188 Treatment; amending s. 401.35, F.S.; requiring the Department of
189 Health to establish circumstances and procedures for honoring
190 Physician Orders for Life Sustaining Treatment; amending s.
191 401.45, F.S.; authorizing emergency medical transportation
192 providers to withhold or withdraw cardiopulmonary resuscitation
193 or other medical interventions if an individual has a Physician
194 Order for Life Sustaining Treatment; provides requirements for
195 the validity of a Physician Order for Life Sustaining Treatment;
196 amending s. 429.255, F.S.; authorizing assisted living facility
197 staff to withhold or withdraw cardiopulmonary resuscitation if
198 an individual has a Physician Order for Life Sustaining
199 Treatment; amending s. 429.73, F.S.; requiring the department to
200 adopt rules for the implementation of Physician Orders for Life
201 Sustaining Treatment in adult family day cares; providing an
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