
Judiciary Committee

HB 2462

Title: An act relating to immunity for health care providers following end-of-life planning declarations.

Brief Description: Regarding immunity for health care providers following end-of-life planning declarations.

Sponsors: Representatives Moeller, Appleton and Roberts.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Provides immunity for health care providers following end-of-life planning declarations.
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Hearing Date: 1/23/12

Staff: Omeara Harrington (786-7136).

Background:

The Department of Health has implemented a Physician Orders for Life-Sustaining Treatment (POLST) form. This standardized form allows individuals to summarize their wishes regarding end of life treatment and communicate those wishes emergency medical personnel or staff in residential care settings. The form is intended for use by any individual with an advanced life-limiting illness.

The POLST form is signed by a patient's physician or advanced registered nurse practitioner after discussion with the patient or the patient's surrogate decision-maker regarding patient preferences. These preferences include whether or not to attempt resuscitation, what medical interventions are permitted when a person has a pulse or is breathing, and whether and how administration of antibiotics and artificial administration of nutrition should occur.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A POLST differs from an advance directive, which is another kind of document that expresses an individual's preferences regarding the withholding or withdrawal of life-sustaining treatment in the event that he or she is in a terminal condition or permanent unconscious state. Advance directives have additional formal requirements including signing in the presence of two neutral witnesses and may be created far in advance of onset of a life-limiting condition. Although an advance directive is not necessary to implement a POLST form for a patient, the POLST form generally functions as a summary of an individual's advance directive choices.

In addition to emergency medical personnel, some health care providers and facilities also rely on the POLST. While these providers and facilities are statutorily immune from legal liability for carrying out advance directives, that same protection is not provided in the POLST provision.

Summary of Bill:

The form developed by the Department of Health is to be known as "physician orders for life sustaining treatment" and is intended to provide emergency and end-of-life instructions to emergency medical personnel. Valid and enforceable forms must be signed by a medical professional as described in the bill and by the patient or the patient's legal surrogate.

Absent negligence, a provider acting within the scope of his or her license and in good faith will not be legally liable or subject to professional sanction for following the directives on the POLST form. The definition of "provider" for purposes of the act encompasses not only health care providers, but also various facilities that provide care.

Appropriation: None.

Fiscal Note: Requested on January 21, 2012.

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