

## HOUSE BILL NO. HB0162

Providers' orders for life sustaining treatment.

Sponsored by: Representative(s) Wilson, Brown, Esquibel,  
K., Harvey, Kasperik and Winters and  
Senator(s) Craft and Ross

A BILL

for

1 AN ACT relating to public health; creating the Provider  
2 Orders for Life Sustaining Treatment Program Act; providing  
3 for execution of health care treatment documents and orders  
4 as specified; requiring compliance with medical orders as  
5 specified; providing for civil and criminal immunity as  
6 specified; requiring rulemaking; providing for continued  
7 effectiveness of prior medical directives; repealing the  
8 cardiopulmonary resuscitation directives statute; and  
9 providing for effective dates.

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11 *Be It Enacted by the Legislature of the State of Wyoming:*

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13 **Section 1.** W.S. 35-22-501 through 35-22-509 are  
14 created to read:

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ARTICLE 5

PROVIDER ORDERS FOR LIFE SUSTAINING TREATMENT PROGRAM ACT

**35-22-501. Short title.**

This article shall be known and may be cited as the "Provider Orders for Life Sustaining Treatment Program Act."

**35-22-502. POLST program.**

(a) The provider orders for life sustaining treatment (POLST) program is a process of evaluation and communication between a patient, or the patient's agent, guardian or surrogate, and health care professionals in order to:

(i) Ensure that health care providers understand the desires of the patient, or the patient's agent, guardian or surrogate, regarding medical treatment as the patient nears the end of life;

1           (ii) Convert the patient's goals and preferences  
2 for care into a set of medical orders on a POLST form that  
3 is portable across care settings to be complied with by all  
4 health professionals; and

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6           (iii) Provide the patient and the patient's  
7 agent, guardian or surrogate, if any, with a copy of the  
8 completed POLST form.

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10          (b) Unless otherwise provided in this article, terms  
11 in this article shall have the same meaning as in the  
12 Wyoming Health Care Decisions Act.

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14           **35-22-503. POLST form; who may execute.**

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16          (a) Any adult who has the decisional capacity to  
17 provide informed consent to, or refusal of, medical  
18 treatment may execute a POLST form.

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20          (b) Any adult authorized pursuant to the laws of this  
21 state or any other state to make medical treatment  
22 decisions on behalf of a person who lacks decisional  
23 capacity may execute a POLST form on behalf of that person.

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2 (c) If a patient who lacks decisional capacity has  
3 not executed a valid advance directive, a surrogate may  
4 execute a POLST form on behalf of the patient as provided  
5 in W.S. 35-22-406.

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7 (d) Notwithstanding W.S. 3-2-202, a guardian  
8 appointed under W.S. 3-2-101 shall not be required to  
9 obtain an order of the court before discussing the ward's  
10 treatment with a health care provider or before executing a  
11 POLST form on behalf of the ward.

12

13 (e) An individual acting in good faith as agent,  
14 guardian or surrogate under this act shall not be subject  
15 to civil liability or criminal prosecution for executing a  
16 POLST form as provided in this act on behalf of a patient  
17 who lacks decisional capacity.

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19 (f) If medical orders on a POLST form relate to a  
20 minor and direct that life sustaining treatment be withheld  
21 from the minor, the order shall include a certification by  
22 two (2) health care providers that, in their clinical

1 judgment, an order to withhold treatment is in the best  
2 interest of the minor.

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4 **35-22-504. POLST forms; department of health duties.**

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6 (a) The department of health shall promulgate rules  
7 implementing this act and prescribing a standardized POLST  
8 form, subject to the following:

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10 (i) The rules shall contain protocols for the  
11 implementation of a standardized POLST form, which shall be  
12 available in electronic format on the department website  
13 for downloading by patients and providers;

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15 (ii) The department in formulating rules and  
16 forms shall consult with health care professional licensing  
17 groups, provider advocacy groups, patient advocacy groups  
18 and other appropriate stakeholders;

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20 (iii) The standardized POLST form and protocols  
21 shall be consistent with use across all health care  
22 settings, shall reflect nationally recognized best  
23 practices in end-of-life care and shall include:

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2 (A) The patient's directive concerning the  
3 administration of life sustaining treatment;

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5 (B) The dated signature of the patient or,  
6 if applicable, the patient's agent, guardian or surrogate;

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8 (C) The name, address and telephone number  
9 of the patient's primary health care provider;

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11 (D) The dated signature of the primary  
12 health care provider entering medical orders on the POLST  
13 form, who certifies that the signing provider discussed the  
14 patient's care goals and preferences with the patient or  
15 the patient's agent, guardian or surrogate.

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17 (b) The department in implementing this article  
18 shall:

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20 (i) Recommend a uniform method of identifying  
21 persons who have executed a POLST form and providing health  
22 care providers with contact information of the person's  
23 primary health care provider;

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2 (ii) Oversee the education of health care  
3 providers regarding the POLST program under the  
4 department's licensing authority;

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6 (iii) Develop a process for collecting provider  
7 feedback to enable periodic redesign of the POLST form in  
8 accordance with current health care practice;

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10 (iv) Adopt a plan to convert the cardiopulmonary  
11 resuscitation directive program under W.S. 35-22-203 to a  
12 POLST program by January 1, 2016.

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14 **35-22-505. Duty to comply with POLST form; immunity,**  
15 **effect on criminal charges against another person.**

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17 (a) Emergency medical service personnel, health care  
18 providers and health care facilities, absent actual notice  
19 of revocation or termination of a POLST form, shall comply  
20 with the orders on a person's POLST form. Any emergency  
21 medical service personnel, health care provider or health  
22 care facility or any other person who, in good faith and in  
23 accordance with generally accepted health care standards

1 applicable to the health care professional or institution,  
2 complies with orders on a POLST form shall not be subject  
3 to civil liability, criminal prosecution, regulatory  
4 sanction or discipline for unprofessional conduct.

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6 (b) Compliance by emergency medical service  
7 personnel, health care providers or health care facilities  
8 with orders on a POLST form shall not affect the criminal  
9 prosecution of any person otherwise charged with the  
10 commission of a criminal act.

11

12 (c) In the absence of a valid POLST form or other  
13 provider orders documented in a medical record available to  
14 the treating provider, an individual's consent to life  
15 sustaining treatment shall be presumed.

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17 (d) A POLST form from another state, absent actual  
18 notice of revocation or termination, shall be presumed to  
19 be valid and shall be effective in this state.

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21 (e) Emergency medical service personnel, health care  
22 providers and health care facilities shall comply with the  
23 orders on a POLST form without regard to whether the



1 ordering provider is on the medical staff of the treating  
2 health care facility.

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4 (f) If a patient whose goals and preferences for care  
5 have been entered on a valid POLST form is transferred from  
6 one (1) health care facility to another, the health care  
7 facility initiating the transfer shall communicate the  
8 existence of the POLST form to the receiving facility prior  
9 to the transfer. The POLST form shall accompany the  
10 individual to the receiving facility and shall remain in  
11 effect. The POLST form shall be reviewed by the treating  
12 health care professional and made into a medical order at  
13 the receiving facility unless the POLST form is replaced or  
14 voided as provided in this article.

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16 (g) To the extent that the orders on a POLST form  
17 described in this section conflict with the provisions of  
18 an advance directive made under W.S. 35-22-403, the orders  
19 on a valid POLST form take precedence.

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21 **35-22-506. POLST form not a prerequisite for**  
22 **services.**

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1 Facilities or providers shall not require a person to  
2 complete a POLST form as a prerequisite or condition for  
3 the provision of services or treatment.

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5 **35-22-507. Presence or absence of POLST form; effect**  
6 **on life or health insurance.**

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8 An individual's execution of or refusal or failure to  
9 execute a POLST form shall not affect, impair or modify any  
10 contract of life or health insurance or annuity to which  
11 the individual is a party, shall not be the basis for any  
12 delay in issuing or refusing to issue an annuity or policy  
13 of life or health insurance and shall not be the basis for  
14 any increase or decrease in premium charged to the  
15 individual.

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17 **35-22-508. Revocation of POLST form.**

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19 (a) An individual's consent to all or part of a POLST  
20 form may be revoked at any time and in any manner that  
21 communicates the individual's intent to revoke.

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1           (b) An agent, guardian or surrogate for a patient who  
2 lacks decisional capacity may revoke consent on behalf of  
3 the patient all or part of a POLST form at any time and in  
4 any manner that communicates an intent to revoke.

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6           (c) A health care professional, agent, guardian or  
7 surrogate who is informed of a revocation shall promptly  
8 communicate the fact of the revocation to the patient's  
9 primary care physician, the current supervising health care  
10 professional and any health care facility at which the  
11 patient is receiving care.

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13           **35-22-509. Effect of act on euthanasia; mercy**  
14 **killing; construction of statute.**

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16 Nothing in this article shall be construed as condoning,  
17 authorizing or approving euthanasia or mercy killing. In  
18 addition, the legislature does not intend that this article  
19 be construed as permitting any affirmative or deliberate  
20 act to end a person's life, except to permit natural death  
21 as provided by this article.

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