

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1254 Session of 2025

INTRODUCED BY KHAN, VENKAT, KOSIEROWSKI, MUNROE, GIRAL, SANCHEZ, GUENST, HANBIDGE, MALAGARI, PROBST, HADDOCK, CEPEDA-FREYTI, HILL-EVANS, OTTEN, KENYATTA AND GREEN, APRIL 17, 2025

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 17, 2025

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, in health care, further
3 providing for applicability, for definitions, for criminal
4 penalties, for definitions, for orders, bracelets and
5 necklaces, for revocation, for absence of order, bracelet or
6 necklace and for emergency medical services, repealing
7 provisions relating to advisory committee and providing for
8 discontinuance and for Pennsylvania orders for life-
9 sustaining treatment; and making an editorial change.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 5421(a) of Title 20 of the Pennsylvania
13 Consolidated Statutes is amended to read:

14 § 5421. Applicability.

15 (a) General rule.--This chapter applies to advance health
16 care directives [and], out-of-hospital nonresuscitation orders
17 and Pennsylvania orders for life-sustaining treatment.

18 * * *

19 Section 2. The definitions of "health care provider,"
20 "medical command physician," "order" and "patient" in section
21 5422 of Title 20 are amended and the section is amended by

1 adding definitions to read:

2 § 5422. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 * * *

7 "Health care provider." A person who is licensed, certified
8 or otherwise authorized by the laws of this Commonwealth to
9 administer or provide health care in the ordinary course of
10 business or practice of a profession. The term includes
11 personnel recognized under [the act of July 3, 1985 (P.L.164,
12 No.45), known as the Emergency Medical Services Act.] 35 Pa.C.S.
13 Ch. 81 (relating to emergency medical services system) and those
14 individuals recognized under 42 Pa.C.S. § 8331.2 (relating to
15 good Samaritan civil immunity for use of automated external
16 defibrillator).

17 * * *

18 "Medical command physician." A licensed physician who is
19 authorized to give a medical command under [the act of July 3,
20 1985 (P.L.164, No.45), known as the Emergency Medical Services
21 Act] 35 Pa.C.S. Ch. 81 (relating to emergency medical services
22 system).

23 * * *

24 "Order." An out-of-hospital do-not-resuscitate order as
25 defined under section 5483 (relating to definitions) or
26 Pennsylvania orders for life-sustaining treatment as defined
27 under section 5493 (relating to definitions).

28 "Out-of-hospital do-not-resuscitate order" or "OOH-DNR
29 order." An out-of-hospital do-not-resuscitate order as defined
30 under section 5483 (relating to definitions).

1 ["Patient." An out-of-hospital do-not-resuscitate patient as
2 defined under section 5483 (relating to definitions).]

3 "Pennsylvania orders for life-sustaining treatment" or
4 "POLST." As defined under section 5493 (relating to
5 definitions).

6 * * *

7 Section 3. Sections 5432, 5445(b), 5483, 5484(a) and (b),
8 5485, 5486 and 5487 of Title 20 are amended to read:

9 § 5432. Criminal penalties.

10 (a) Criminal homicide.--A person shall be subject to
11 prosecution for criminal homicide as provided in 18 Pa.C.S. Ch.
12 25 (relating to criminal homicide) if the person intends to
13 cause the withholding or withdrawal of life-sustaining treatment
14 contrary to the wishes of the principal or patient and, because
15 of that action, directly causes life-sustaining treatment to be
16 withheld or withdrawn and death to be hastened and:

17 (1) falsifies or forges the advance health care
18 directive, OOH-DNR order, bracelet [or], necklace or POLST of
19 that principal or patient; or

20 (2) willfully conceals or withholds personal knowledge
21 of a revocation of an advance health care directive or DNR
22 status.

23 (b) Interference with health care directive.--A person
24 commits a felony of the third degree if that person willfully:

25 (1) conceals, cancels, alters, defaces, obliterates or
26 damages an advance health care directive, OOH-DNR order,
27 bracelet [or], necklace or POLST without the consent of the
28 principal or patient;

29 (2) causes a person to execute an advance health care
30 directive or order or wear a bracelet or necklace by undue

1 influence, fraud or duress; or

2 (3) falsifies or forges an advance health care
3 directive, OOH-DNR order, bracelet [or], necklace or POLST or
4 any amendment or revocation thereof, the result of which is a
5 direct change in the health care provided to the principal or
6 patient.

7 § 5445. Emergency medical services.

8 * * *

9 (b) Applicability.--This section is applicable only in those
10 instances where an out-of-hospital DNR order is not in effect
11 under section 5484 (relating to OOH-DNR orders, bracelets and
12 necklaces).

13 § 5483. Definitions.

14 The following words and phrases when used in this subchapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Department." The Department of Health of the Commonwealth.

18 "Emergency medical services provider." [A health care
19 provider recognized under the act of July 3, 1985 (P.L.164,
20 No.45), known as the Emergency Medical Services Act.] As defined
21 under 35 Pa.C.S. § 8103 (relating to definitions). The term
22 includes those individuals recognized under 42 Pa.C.S. § 8331.2
23 (relating to good Samaritan civil immunity for use of automated
24 external defibrillator).

25 "EMS." Emergency medical services.

26 "Health care provider." A person who is licensed, certified
27 or otherwise authorized by the laws of this Commonwealth to
28 administer or provide health care in the ordinary course of
29 business or practice of a profession. The term includes
30 personnel recognized under [the act of July 3, 1985 (P.L.164,

No.45), known as the Emergency Medical Services Act,] 35 Pa.C.S.
Ch. 81 (relating to emergency medical services system) and those
individuals recognized under 42 Pa.C.S. § 8331.2 (relating to
good Samaritan civil immunity for use of automated external
defibrillator).

"Out-of-hospital do-not-resuscitate bracelet." A bracelet in
the standard format set forth in section 5484 (relating to OOH-
DNR orders, bracelets and necklaces), supplied by the department
and issued by the attending physician, which may be worn at the
patient's option to notify emergency medical services providers
of the presence of an OOH-DNR order.

"Out-of-hospital do-not-resuscitate necklace." A necklace in
the standard format set forth in section 5484 (relating to OOH-
DNR orders, bracelets and necklaces), supplied by the department
and issued by the attending physician, which may be worn at the
patient's option to notify emergency medical services providers
of the presence of an OOH-DNR order.

"Out-of-hospital do-not-resuscitate order[.]" or "OOH-DNR
order." An order in the standard format set forth in section
5484 (relating to OOH-DNR orders, bracelets and necklaces),
supplied by the department and issued by the attending
physician, directing emergency medical services providers to
withhold cardiopulmonary resuscitation from the patient in the
event of respiratory or cardiac arrest.

"Out-of-hospital do-not-resuscitate patient." An individual
who:

(1) Has an end-stage medical condition or is permanently
unconscious.

(2) Pursuant to section 5484(a) (relating to OOH-DNR
orders, bracelets and necklaces), possesses and in any manner

1 displays or causes to be displayed for emergency medical
2 services providers an apparently valid OOH-DNR order,
3 bracelet or necklace.

4 "Surrogate." A health care agent or a health care
5 representative.

6 § 5484. [Orders] OOH-DNR orders, bracelets and necklaces.

7 (a) Issuance.--An attending physician, upon the request of a
8 patient who is at least 18 years of age, has graduated from high
9 school, has married or is an emancipated minor, or the patient's
10 surrogate if the surrogate is so authorized, shall issue to the
11 patient an OOH-DNR order and may issue at the request of the
12 patient or the patient's surrogate a bracelet or necklace
13 supplied by the department. The patient may, at the patient's
14 option, wear the bracelet or display the order or necklace to
15 notify emergency medical services providers of the patient's DNR
16 status.

17 (b) Format of OOH-DNR order.--The department shall, with the
18 advice of the Pennsylvania Emergency Health Services Council and
19 with the assistance of the regional emergency medical services
20 councils, make available standard OOH-DNR orders for issuance to
21 patients by attending physicians of this Commonwealth. The form
22 of the order shall contain, but not be limited to, the
23 following:

24 PENNSYLVANIA OUT-OF-HOSPITAL

25 DO-NOT-RESUSCITATE ORDER

26 Patient's full legal name:

27 I, the undersigned, state that I am the attending
28 physician of the patient named above. The above-named patient
29 or the patient's surrogate has requested this order, and I
30 have made the determination that the patient is eligible for

an order and satisfies one of the following:

..... has an end-stage medical condition.

..... is permanently unconscious and has a living will directing that no cardiopulmonary resuscitation be provided to the patient in the event of the patient's cardiac or respiratory arrest.

I direct any and all emergency medical services personnel, commencing on the effective date of this order, to withhold cardiopulmonary resuscitation (cardiac compression, invasive airway techniques, artificial ventilation, defibrillation and other related procedures) from the patient in the event of the patient's respiratory or cardiac arrest.

I further direct such personnel to provide to the patient other medical interventions, such as intravenous fluids, oxygen or other therapies necessary to provide comfort care or to alleviate pain, unless directed otherwise by the patient or the emergency medical services provider's authorized medical command physician.

Signature of attending physician:

Printed name of attending physician:

Dated:

Attending physician's emergency telephone number:

I, the undersigned, hereby direct that in the event of my cardiac and/or respiratory arrest efforts at cardiopulmonary resuscitation not be initiated and that they may be withdrawn if initiated. I understand that I may revoke these directions at any time by giving verbal instructions to the emergency medical services providers, by physical cancellation or destruction of this form or my bracelet or necklace or by simply not displaying this form or the bracelet or necklace

1 for my EMS [caregivers] providers.

2 Signature of patient (if capable of making informed
3 decisions):

4 I, the undersigned, hereby certify that I am authorized
5 to execute this order on the patient's behalf by virtue of
6 having been designated as the patient's surrogate and/or by
7 virtue of my relationship to the patient (specify
8 relationship:). I hereby direct that in the event
9 of the patient's cardiac and/or respiratory arrest efforts at
10 cardiopulmonary resuscitation not be initiated and be
11 withdrawn if initiated.

12 Signature of surrogate (if patient is incapable of making
13 informed decisions):

14 * * *

15 § 5485. Revocation.

16 (a) Patient.--If a patient has obtained an OOH-DNR order,
17 only the patient may revoke the patient's DNR status.

18 (b) Surrogate.--If a surrogate has obtained an OOH-DNR
19 order, the patient or the surrogate may revoke a patient's
20 status.

21 (c) Manner.--Revocation under this section may be done at
22 any time without regard to the patient's physical or mental
23 condition and in any manner, including verbally or by destroying
24 or not displaying the OOH-DNR order, bracelet or necklace.

25 § 5486. Absence of OOH-DNR order, bracelet or necklace.

26 If an OOH-DNR order has not been issued by an attending
27 physician, a presumption does not arise as to the intent of the
28 individual to consent to or to refuse the initiation,
29 continuation or termination of life-sustaining treatment.

30 § 5487. Emergency medical services.

1 (a) Medical command instructions.--Notwithstanding the
2 absence of an OOH-DNR order, bracelet or necklace pursuant to
3 this section, emergency medical services providers shall at all
4 times comply with the instructions of an authorized medical
5 command physician to withhold or discontinue resuscitation.

6 (b) Effect of OOH-DNR order, bracelet or necklace.--

7 (1) Emergency medical services providers are authorized
8 to and shall comply with an OOH-DNR order if made aware of
9 the order by examining a bracelet, a necklace or the order
10 itself.

11 (2) Emergency medical services providers shall provide
12 other medical interventions necessary and appropriate to
13 provide comfort and alleviate pain, including intravenous
14 fluids, medications, oxygen and any other intervention
15 appropriate to the level of the certification of the
16 provider, unless otherwise directed by the patient or the
17 emergency medical services provider's authorized medical
18 command physician.

19 (3) As used in this subsection, the term "comply" means:

20 (i) to withhold cardiopulmonary resuscitation from
21 the patient in the event of respiratory or cardiac
22 arrest; or

23 (ii) to discontinue and cease cardiopulmonary
24 resuscitation in the event the emergency medical services
25 provider is presented with an OOH-DNR order or discovers
26 a necklace or bracelet after initiating cardiopulmonary
27 resuscitation.

28 (c) Uncertainty regarding validity or applicability of OOH-
29 DNR order, bracelet or necklace.--

30 (1) Emergency medical services providers who in good

1 faith are uncertain about the validity or applicability of an
2 OOH-DNR order, bracelet or necklace shall render care in
3 accordance with their level of certification.

4 (2) Emergency medical services providers who act under
5 paragraph (1) shall not be subject to civil or criminal
6 liability or administrative sanction for failure to comply
7 with an OOH-DNR order under this section.

8 (d) Recognition of other states' orders.--Emergency medical
9 services or [out-of-hospital DNR] OOH-DNR orders, bracelets or
10 necklaces valid in states other than this Commonwealth shall be
11 recognized in this Commonwealth to the extent that these orders,
12 bracelets or necklaces and the criteria for their issuance are
13 consistent with the laws of this Commonwealth. Emergency medical
14 services providers shall act in accordance with the provisions
15 of this section when encountering a patient with an apparently
16 valid EMS or out-of-hospital DNR form, bracelet or necklace
17 issued by another state. Emergency medical services providers
18 acting in good faith under this section shall be entitled to the
19 same immunities and protections that would otherwise be
20 applicable.

21 Section 4. Section 5488 of Title 20 is repealed:

22 [§ 5488. Advisory committee.

23 (a) Establishment.--Within 60 days of the effective date of
24 this section, the department shall establish a committee to
25 assist it in determining the advisability of using a
26 standardized form containing orders by qualified physicians that
27 detail the scope of medical treatment for patients' life-
28 sustaining wishes.

29 (b) Membership.--The committee shall include representatives
30 from the Pennsylvania Medical Society, the Hospital and Health

1 System Association of Pennsylvania, the Joint State Government
2 Commission's Advisory Committee on Decedents' Estates Laws, the
3 Pennsylvania Bar Association, the Department of Aging, the
4 Department of Public Welfare and other interested persons at the
5 department's discretion.

6 (c) Scope of review.--The committee's review shall include,
7 but not be limited to, examination of the following:

8 (1) The need to adopt this type of standardized form in
9 view of the existing use of do-not-resuscitate orders.

10 (2) The use and evaluation of use of such forms in other
11 states.

12 (3) Any other matters determined by the department to be
13 relevant to its determination.]

14 Section 5. Title 20 is amended by adding a section to read:
15 § 5489. Discontinuance.

16 An OOH-DNR order may not be executed on or after the date the
17 department adopts an initial POLST form under section 5498
18 (relating to POLST form). This subchapter shall continue to
19 apply to any OOH-DNR order executed prior to the date the
20 department adopts an initial POLST form. Previously executed
21 OOH-DNR orders, bracelets and necklaces may continue to be
22 recognized as valid.

23 Section 6. Chapter 54 of Title 20 is amended by adding a
24 subchapter to read:

25 SUBCHAPTER F

26 PENNSYLVANIA ORDERS FOR LIFE-SUSTAINING TREATMENT

27 Sec.

28 5491. Scope of subchapter.

29 5492. Legislative findings and intent.

30 5493. Definitions.

1 5494. Prohibitions on use.
2 5495. Voluntary consent requirement.
3 5496. POLST Advisory Committee.
4 5497. Administration of POLST program.
5 5498. POLST form.
6 5498.1. Education about POLST.
7 5498.2. Requirements for valid POLST.
8 5498.3. Portability.
9 5498.4. Team care.
10 5498.5. Copies of orders.
11 5498.6. Signature options.
12 5498.7. Standards for surrogate decision makers.
13 5498.8. Revocation.
14 5498.9. Transfer requirements.
15 5498.10. Review requirements.
16 5498.11. Compliance.
17 5498.12. Emergency medical services.
18 5498.13. Immunity.
19 5498.14. Conflict with advance health care directive.
20 5498.15. POLST executed under prior POLST form.
21 5498.16. POLST executed under PLSWC form.
22 5498.17. POLST executed in another state or jurisdiction.
23 5498.18. POLST registry study.

24 § 5491. Scope of subchapter.

25 This subchapter relates to Pennsylvania orders for life-
26 sustaining treatment.

27 § 5492. Legislative findings and intent.

28 The General Assembly finds and declares as follows:

29 (1) All individuals have a qualified right to control
30 their health care and should not lose that right if they

1 become incompetent or have never been a competent adult.

2 (2) The Commonwealth has recognized this right by
3 providing for advance health care directives in which
4 individuals may provide direction and state their goals and
5 preferences about future health care and by providing for
6 surrogate decision makers for incompetent adults and
7 unemancipated minors.

8 (3) Pennsylvania orders for life-sustaining treatment,
9 or POLST, differs from an advance health care directive as it
10 converts an individual's wishes regarding health care into a
11 medical order that is immediately actionable and applicable
12 across all health care settings.

13 (4) The use of a POLST may overcome many of the
14 limitations and problems associated with advance health care
15 directives and existing orders regarding cardiopulmonary
16 resuscitation and other end-of-life care, including out-of-
17 hospital do-not-resuscitate orders.

18 (5) In many cases, advance health care directives only
19 name a surrogate decision maker to make health care decisions
20 for the principal or lack specificity as to the principal's
21 goals and preferences for a medical condition that
22 subsequently develops because it was not foreseen by the
23 principal.

24 (6) Existing medical orders are frequently ineffective
25 when the patient is transferred from one care setting to
26 another because the procedures, forms and requirements at
27 each care setting may be different, resulting in a loss in
28 the ability of patients to have their wishes honored.

29 (7) Existing emergency medical services protocols may
30 require emergency medical services personnel to proceed to

1 cardiopulmonary resuscitation when an individual is found in
2 cardiac and respiratory arrest, even if the individual has
3 completed an advance directive or has otherwise clearly
4 indicated that the individual does not wish to receive
5 cardiopulmonary resuscitation.

6 (8) A POLST, which is executed by a health care
7 practitioner under appropriate circumstances to implement the
8 wishes of the patient expressed directly by the patient or
9 through a surrogate decision maker, provides clear direction
10 for the patient's care regarding health care issues likely to
11 emerge given the patient's current medical condition.

12 (9) A key step in the POLST process is the health care
13 practitioner's review with the patient or the patient's
14 surrogate decision maker of the patient's current health
15 status, diagnoses and prognosis to determine whether a POLST
16 would be appropriate or should be updated.

17 (10) The POLST decision-making process and medical
18 orders are intended for patients who are considered to be at
19 risk for a life-threatening clinical event because they have
20 a serious life-limiting medical condition, which may include
21 advanced frailty.

22 (11) Among vulnerable populations, including persons
23 with disabilities, a POLST is appropriate for seriously ill
24 or frail patients if their health care practitioner would not
25 be surprised if they died within the next year.

26 (12) A POLST is not recommended for individuals with
27 stable, even chronic, medical conditions with years of life
28 expectancy.

29 (13) It should not be assumed that all patients in any
30 facility, including a nursing home, should have or would

1 desire a POLST.

2 (14) The well-being of the patient is paramount in
3 considering a POLST, not cost savings to the government or
4 insurers.

5 (15) A POLST is appropriately entered following a shared
6 decision-making process that facilitates patient consent that
7 is voluntary, educated, collaborative and thoughtful,
8 including a discussion of the patient's current clinical
9 status, treatment options and likely outcomes, together with
10 the patient's goals of care, preferences and values.

11 (16) Conversations about a POLST must avoid any bias
12 against continuation of care and must not characterize the
13 continuation of life as burdensome. When appropriate, these
14 conversations should emphasize palliative care and hospice
15 availability.

16 (17) A standardized POLST form, which is easily
17 recognized, understood and implemented, can greatly advance
18 the ability of patients to ensure that their medical care is
19 aligned with their goals of care, preferences and values, as
20 informed by a shared decision-making process.

21 (18) Advance health care directives remain critically
22 important for adults from the age of majority until death. An
23 advance health care directive, rather than a POLST, is the
24 appropriate advance care planning tool for healthy patients.

25 (19) When the use of a POLST becomes appropriate, an
26 existing advance health care directive will help shape the
27 choices of the patient or the patient's surrogate decision
28 maker when discussing a POLST with a health care provider.

29 (20) This subchapter is intended to provide a framework
30 and legal authority for a POLST to be valid and portable

1 across all care settings, consistent with the foregoing
2 findings.

3 § 5493. Definitions.

4 The following words and phrases when used in this subchapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Committee." The POLST Advisory Committee established under
8 this subchapter.

9 "Department." The Department of Health of the Commonwealth.

10 "Health care facility." Any of the following:

11 (1) A facility that is licensed as a health care
12 facility by the department under Chapter 8 of the act of July
13 19, 1979 (P.L.130, No.48), known as the Health Care
14 Facilities Act, including a hospital, long term care
15 facility, home health care agency or hospice.

16 (2) A facility that is licensed or approved by the
17 Department of Human Services under Article IX or X of the act
18 of June 13, 1967 (P.L.31, No.21), known as the Human Services
19 Code, and provides health care services, including a
20 psychiatric facility or intermediate care facility for the
21 developmentally or intellectually disabled.

22 (3) A facility that is licensed as a prescribed
23 pediatric extended care center by the department under the
24 act of November 24, 1999 (P.L.884, No.54), known as the
25 Prescribed Pediatric Extended Care Centers Act.

26 "Health care insurer." A person, corporation or other entity
27 that offers administrative, indemnity or payment services under
28 a program of health care or disability benefits, including the
29 following:

30 (1) An insurance company, association, exchange or

1 fraternal benefit society subject to the act of May 17, 1921
2 (P.L.682, No.284), known as The Insurance Company Law of
3 1921.

4 (2) A health maintenance organization subject to the act
5 of December 29, 1972 (P.L.1701, No.364), known as the Health
6 Maintenance Organization Act.

7 (3) A hospital plan corporation subject to 40 Pa.C.S.
8 Ch. 61 (relating to hospital plan corporations).

9 (4) A professional health services corporation subject
10 to 40 Pa.C.S. Ch. 63 (relating to professional health
11 services plan corporations).

12 (5) A self-insured employee welfare benefit plan.

13 (6) A third-party administrator of a self-insured
14 employee welfare benefit plan.

15 (7) A Federal, State or local government sponsored or
16 operated program.

17 "Health care practitioner." A physician, physician assistant
18 or certified registered nurse practitioner acting in accordance
19 with applicable law, including respective licensing acts and
20 regulations.

21 "Health care provider." As defined in section 5483 (relating
22 to definitions).

23 "Patient Life-Sustaining Wishes Committee." The committee
24 appointed to assist the department in determining the
25 advisability of using a standardized form containing orders by
26 qualified physicians that detail the scope of medical treatment
27 for patients' life-sustaining wishes under former section 5488
28 (relating to advisory committee).

29 "Pennsylvania orders for life-sustaining treatment" or
30 "POLST." One or more medical orders, issued by a health care

practitioner for the care of an individual, regarding
cardiopulmonary resuscitation or other medical interventions
that are entered in accordance with section 5498.2 (relating to
requirements for valid POLST).

"PLSWC form." The form for a POLST previously approved by
the department on the recommendation of the Patient Life-
Sustaining Wishes Committee.

"POLST form." The form for a POLST adopted under section
5498 (relating to POLST form).

"Secretary." The Secretary of Health of the Commonwealth.

"Surrogate decision maker." A health care agent, health care
representative, guardian of the person or parent of a minor who
is legally authorized to make a health care decision for a
patient.

§ 5494. Prohibitions on use.

(a) Stable medical conditions.--A POLST is not recommended
for individuals with stable, even if chronic, medical conditions
and years of life expectancy.

(b) Construction.--Nothing in this subchapter shall be
construed to advance or support euthanasia, suicide or health
care practitioner-assisted suicide.

§ 5495. Voluntary consent requirement.

(a) Patient consent.--A POLST shall not be valid without the
voluntary consent of the patient or a surrogate decision maker.

(b) Health insurance or coverage.--A health care insurer may
not:

(1) Require an individual to consent to a POLST or to
have a POLST as a condition for being insured.

(2) Charge an individual a different rate or fee whether
or not the individual consents to, or has, a POLST.

1 (3) Require a health care provider to have a policy to
2 offer a POLST to any individual.

3 (4) Provide a health care provider a financial
4 incentive, payment, discount or rating incentive for having a
5 policy or procedure relating to POLST completion.

6 (5) Impose a rating or reimbursement penalty if a health
7 care provider fails to achieve a target for POLST
8 completions.

9 (c) Consultation.--Notwithstanding subsection (b), a health
10 care provider may be paid for consultation with or counseling of
11 a patient concerning a POLST or offering advance health care
12 planning.

13 (d) Health care provider and health care facility
14 policies.--

15 (1) A health care provider and a health care facility
16 may not make consent to a POLST or having a POLST a condition
17 of admission to a health care facility, continued occupancy
18 at a health care facility or the provision of health care
19 services by the health care provider or a health care
20 facility.

21 (2) A health care provider and a health care facility
22 may not provide a patient or surrogate decision maker an in-
23 kind or financial incentive, payment or discount for
24 consenting to or having a POLST.

25 (3) In complying with paragraphs (1) and (2), a health
26 care provider and a health care facility may have a policy to
27 offer a POLST to appropriate individuals as part of a
28 conversation about goals of care, personal values and
29 preferences, benefits of various treatment options and
30 avoiding unwanted burden.

1 § 5496. POLST Advisory Committee.

2 (a) Appointment.--The secretary shall appoint a POLST
3 Advisory Committee, including a chairperson and vice chairperson
4 of the committee.

5 (b) Role of committee.--The committee shall advise the
6 department on POLST-related matters, including the format and
7 content of the POLST form and education about POLST.

8 (c) Composition.--

9 (1) After consulting Statewide organizations comprised
10 of relevant stakeholders, the secretary shall appoint one or
11 more representatives of the following to the committee:

12 (i) The Pennsylvania Medical Society.

13 (ii) The Hospital and Healthsystem Association of
14 Pennsylvania.

15 (iii) The Pennsylvania Homecare Association.

16 (iv) The Pennsylvania Bar Association.

17 (v) The Joint State Government Commission's Advisory
18 Committee on Decedents' Estates Laws.

19 (vi) Pennsylvania Emergency Health Services Council.

20 (vii) Pennsylvania College of Emergency Physicians.

21 (viii) Long-term care facilities and providers of
22 long-term support.

23 (ix) Patient advocates.

24 (x) Disability rights advocates.

25 (xi) Faith-based health care providers.

26 (xii) Bioethicists, including both a secular and
27 faith-based representative.

28 (2) The secretary may appoint additional individuals to
29 the committee to provide expertise and a broad representation
30 of interests.

1 (3) The secretary shall ensure that members appointed to
2 the committee include individuals with knowledge about:
3 (i) community POLST coalition efforts; and
4 (ii) nationally accepted physician orders for life-
5 sustaining treatment standards and educational resources,
6 including the National POLST Paradigm Task Force.

7 § 5497. Administration of POLST program.

8 (a) Duties.--The department shall perform the following
9 duties in consultation with the committee:

10 (1) Adopt and update a POLST form under section 5498
11 (relating to POLST form).

12 (2) Develop and update basic education materials on
13 POLST under section 5498.1 (relating to education about
14 POLST).

15 (3) Make the POLST form and its educational materials
16 available and accessible through the department's publicly
17 accessible Internet website.

18 (b) Plain language requirement.--In consultation with the
19 committee, the department shall make the POLST form and its
20 educational materials clear, concise, well-organized and
21 otherwise understandable to patients, their families, other
22 surrogate decision makers and health care providers.

23 (c) Coordination.--In the performance of its
24 responsibilities under this subchapter, the department shall
25 coordinate with other State agencies that address the special
26 needs of individuals with disabilities and older persons,
27 including the Department of Aging and the Department of Human
28 Services.

29 § 5498. POLST form.

30 (a) Adoption.--In consultation with the committee, the

1 department shall adopt, and periodically update when
2 appropriate, a standard POLST form for health care practitioners
3 to issue a POLST with the voluntary consent of the patient or an
4 authorized surrogate decision maker.

5 (b) Medical order options.--

6 (1) The POLST form shall include options for a set of
7 medical orders for cardiopulmonary resuscitation and other
8 medical interventions that are determined to be appropriate
9 for a POLST.

10 (2) The POLST form shall be outcome neutral. The medical
11 order options shall range from full treatment to comfort care
12 only, with options in between.

13 (3) The POLST form may include options for nutrition and
14 hydration administered by gastric tube or intravenously or by
15 other medically administered means. If the consent is
16 provided by a surrogate decision maker, the following
17 requirements shall apply:

18 (i) Section 5456(c)(5)(iii) (relating to authority
19 of health care agent).

20 (ii) Section 5461(c) (relating to decisions by
21 health care representative).

22 (iii) Section 5462(c) (relating to duties of
23 attending physician and health care provider).

24 (4) Except as provided under section 5498.2(a)(2)
25 (relating to requirements for valid POLST), no medical order
26 option section shall be required to be completed for the
27 POLST to be valid.

28 (c) Notices.--

29 (1) The POLST form shall clearly and conspicuously state
30 that a POLST may only be issued with the voluntary consent of

1 the patient or the patient's authorized surrogate decision
2 maker and that a patient or surrogate decision maker may not
3 be compelled by a health care provider or health care insurer
4 to complete or sign a POLST.

5 (2) The POLST form may include other notices regarding
6 patient rights, health care practitioner responsibilities and
7 availability of educational information which the department,
8 in consultation with the committee, determines are
9 appropriate.

10 (d) Identification and signatures.--

11 (1) The POLST form shall provide for identification of
12 the patient, any surrogate decision maker who consents to the
13 POLST on behalf of the patient and the health care
14 practitioner who issues the POLST.

15 (2) The POLST form shall provide for the signatures of
16 the patient, any surrogate decision maker and the health care
17 practitioner who issues the POLST.

18 (e) Instructions.--The POLST form shall include instructions
19 for its completion. The instructions shall clearly convey the
20 sections required to be completed for the POLST to be valid.

21 (f) Opportunity for comment.--

22 (1) Prior to adopting the initial POLST form developed
23 after the effective date of this section, the department
24 shall transmit to the Legislative Reference Bureau notice of
25 the proposed form for publication in the next available issue
26 of the Pennsylvania Bulletin and provide an opportunity for
27 comment on the proposed form for at least 60 days after
28 publication of the notice, according to the following:

29 (i) In addition to submitting for publication notice
30 of the initial form in the next available issue of the

1 Pennsylvania Bulletin, the department shall serve a copy
2 of the form to the Health and Human Services Committee of
3 the Senate and the Health Committee of the House of
4 Representatives.

5 (ii) Within 60 days after the close of the comment
6 period, the department shall submit to the Legislative
7 Reference Bureau a subsequent notice for publication in
8 the next available issue of the Pennsylvania Bulletin
9 that responds to each comment the department has
10 received. In providing responses to each comment, the
11 department shall indicate the reasons for adopting or
12 rejecting the recommendations made during the comment
13 period. The department shall submit to the Legislative
14 Reference Bureau a final version of the POLST form for
15 publication in the next available issue of the
16 Pennsylvania Bulletin and on the department's publicly
17 accessible Internet website.

18 (2) The department shall comply with the procedures
19 under paragraph (1) for updates to the POLST form.

20 (3) The adoption of the initial POLST form and any
21 subsequent updates to the POLST form shall be exempt from the
22 following:

23 (i) Article II of the act of July 31, 1968 (P.L.769,
24 No.240), referred to as the Commonwealth Documents Law.

25 (ii) Sections 204(b) and 301(10) of the act of
26 October 15, 1980 (P.L.950, No.164), known as the
27 Commonwealth Attorneys Act.

28 (iii) The act of June 25, 1982 (P.L.633, No.181),
29 known as the Regulatory Review Act.

30 (iv) Section 612 of the act of April 9, 1929

1 (P.L.177, No.175), known as The Administrative Code of
2 1929.

3 (g) POLST forms.--POLST forms executed prior to the
4 effective date of this section shall be recognized as valid
5 POLST forms and shall have full force and effect as if executed
6 on or after the effective date of this section.

7 (h) Printed copies.--The POLST form may not be required to
8 be obtained exclusively from the department or any particular
9 vendor. The department shall provide a process for the POLST
10 form to be downloaded free of charge from a publicly accessible
11 Internet website.

12 § 5498.1. Education about POLST.

13 (a) Duty of department.--In consultation with the committee,
14 the department shall develop, and periodically update when
15 appropriate, educational materials about POLST for patients,
16 surrogate decision makers, health care providers and the public.

17 (b) Basic education.--The department shall make its basic
18 educational materials available in alternative formats that are
19 accessible to persons with a disability. The department's POLST
20 educational materials shall include basic information that
21 explains and provides guidance on the following:

22 (1) The definition of a POLST, including the types of
23 medical interventions that may be covered.

24 (2) How a POLST is an immediately actionable medical
25 order and is valid and portable across all patient settings.

26 (3) When a POLST may be useful and appropriate and when
27 a POLST may not be appropriate.

28 (4) The differences between a POLST and an advance
29 health care directive.

30 (5) The voluntary consent requirement, including a

1 patient's right to refuse to execute a POLST without adverse
2 consequences under section 5495(b) and (d) (relating to
3 voluntary consent requirement).

4 (6) The importance of a shared decision-making process
5 to assure understanding and voluntary consent by patients and
6 surrogate decision makers.

7 (7) When review of a POLST is required or recommended.

8 (8) The obligation of health care providers to comply
9 with a POLST under this subchapter.

10 (9) Legal requirements for surrogate decision making.

11 (10) Appropriate inclusion of patients, to the extent
12 possible, regardless of the patient's physical or mental
13 condition, in decision making when decisions are made on the
14 patient's behalf by surrogate decision makers.

15 (c) Training recommendations.--The department's educational
16 materials shall include recommendations for training of health
17 care practitioners and others who educate patients about POLST
18 or assist in completion of a POLST form to assure that the
19 practitioner or other individual has the practiced skills of
20 those conversations and understands the applicable law, medical
21 issues and treatments covered by a POLST. These materials shall
22 incorporate information consistent with the findings in section
23 5492(9), (10), (11), (12), (13), (14), (15) and (16) (relating
24 to legislative findings and intent).

25 (d) Other resources.--The department may provide information
26 about the availability of educational materials from other
27 sources, including nonprofit organizations that provide
28 education, training and resources for POLST programs.

29 § 5498.2. Requirements for valid POLST.

30 (a) Validity.--To be valid, a POLST shall require each of

1 the following:

2 (1) Use of the POLST form, except under sections 5498.5
3 (relating to copies of orders), 5498.15 (relating to POLST
4 executed under prior POLST form), 5498.16 (relating to POLST
5 executed under PLSWC form) and 5498.17 (relating to POLST
6 executed in another state or jurisdiction).

7 (2) Completion of the section regarding cardiopulmonary
8 resuscitation.

9 (3) Completion of the section documenting preferences
10 regarding hospitalization and preferred level of care.

11 (4) The date and signature of a health care practitioner
12 in accordance with section 5498.6 (relating to signature
13 options), except under subsection (b).

14 (5) The date and signature of the patient or a surrogate
15 decision maker in accordance with section 5498.6, except
16 under subsection (c).

17 (b) Verbal orders.--A verbal order is effective from the
18 date given without countersignature until the expiration of the
19 period of countersignature under paragraph (2) or (3). A health
20 care practitioner's verbal order for a POLST shall be deemed to
21 meet the requirements of subsection (a)(2) if all of the
22 following requirements are met:

23 (1) The order is entered for a patient receiving care
24 from a health care facility.

25 (2) The order is documented on the POLST form and
26 countersigned by the health care practitioner in accordance
27 with any applicable laws and regulations governing the health
28 care facility, including a time frame in which the order must
29 be countersigned.

30 (3) No law or regulation governing the health care

facility establishes a time limit in which the order must be countersigned, and the order is countersigned by the health care practitioner within seven days.

(c) Verbal consent.--A surrogate decision maker's verbal consent for a POLST shall be deemed to satisfy the requirements of subsection (a) (4) if all of the following requirements are met:

(1) Obtaining the signature of the surrogate decision maker is not feasible in a timely manner.

(2) The consent is documented on the POLST form by the health care facility in accordance with the health care facility's policies and procedures.

(3) The signature of the surrogate decision maker is obtained as soon as feasible.

(d) Effectiveness.--A POLST shall be effective on the date the POLST meets the requirements of this section.

§ 5498.3. Portability.

(a) Valid throughout Commonwealth.--A POLST executed in accordance with this subchapter shall be valid anywhere within this Commonwealth, including all health care facilities, the patient's residence and other care settings outside of a health care facility, and while the patient is in transit from one health care facility or care setting to another.

(b) Authority of health care practitioners.--A POLST executed in accordance with this subchapter shall be valid in a health care facility regardless of whether the health care practitioner who signed the order has clinical privileges with the health care facility.

(c) Other orders.--This subchapter does not prohibit a do-not-resuscitate or other order issued for care within a health

care facility from being valid and actionable within that health
care facility in accordance with the laws and regulations
governing the health care facility.

§ 5498.4. Team care.

A health care facility may designate individuals who have
been trained in a manner consistent with section 5498.1(c)
(relating to education about POLST), including nurses and social
workers, to participate in conversations with a patient or the
patient's surrogate decision maker regarding a POLST or
assisting in completion of the POLST form.

§ 5498.5. Copies of orders.

A copy of a POLST, including a photocopy, facsimile or other
electronic copy, shall be as effective as the original POLST.

§ 5498.6. Signature options.

(a) Options.--A signature required by section 5498.2
(relating to requirements for valid POLST) may be provided by a
hand-written signature or any other means allowed under this
section.

(b) Patient unable to sign.--If a patient is unable to sign
by a written signature, it shall be sufficient for:

(1) the patient to sign by a mark; or

(2) another individual to sign for the patient if that
patient specifically directs the other individual to sign the
POLST for the patient.

(c) Electronic signatures.--In the case of a patient
receiving care from a health care facility, a signature on a
POLST may be obtained by any electronic means that is authorized
by the policies and procedures of the facility and is consistent
with the laws governing the facility, including a digitized
signature and a digital signature. A copy of the POLST shall

1 show a representative image of the signature in the applicable
2 signature field.

3 § 5498.7. Standards for surrogate decision makers.

4 (a) Duty of surrogate decision maker.--When making a
5 decision about a POLST on behalf of a patient, a surrogate
6 decision maker shall comply with all applicable legal
7 requirements for health care decision making by a surrogate
8 decision maker, including those provided under subsection (b),
9 and the decisions of the surrogate decision maker are subject to
10 all applicable legal restrictions on decisions by a surrogate
11 decision maker.

12 (b) Specific laws.--Surrogate decision makers must comply
13 with the following:

14 (1) Subchapter C (relating to health care agents and
15 representatives), including:

16 (i) Section 5456(c) (relating to authority of health
17 care agent).

18 (ii) Section 5461(c) (relating to decisions by
19 health care representative).

20 (iii) Section 5462(c) (relating to duties of
21 attending physician and health care provider).

22 (2) Chapter 55 (relating to incapacitated persons).

23 (c) Minors.--A surrogate decision maker for an unemancipated
24 minor shall be subject to the requirements and restrictions
25 applicable to a health care representative for an adult when
26 making a decision about a POLST on behalf of the minor.

27 (d) Competent patient.--This section does not limit the
28 right of a competent patient to consent to a POLST.

29 § 5498.8. Revocation.

30 (a) Consent.--A patient or a surrogate decision maker acting

1 within a decision-making authority may revoke consent to all or
2 part of a POLST at any time and in any manner that communicates
3 an intent to revoke.

4 (b) Notice.--A health care provider or surrogate decision
5 maker who is informed of a revocation shall promptly communicate
6 the fact of the revocation to any attending health care provider
7 and to any health care facility from which the patient is
8 receiving care.

9 (c) Implementation.--A health care provider that is notified
10 of a POLST revocation shall record that the POLST is void in any
11 medical records containing the order that are maintained by the
12 health care provider.

13 § 5498.9. Transfer requirements.

14 (a) Notice of POLST.--A health care facility that transfers
15 a patient with a POLST to another health care facility shall
16 provide the POLST to the receiving facility and any health care
17 providers who are responsible for the patient's care during
18 transport to the receiving facility. The notice of the order
19 shall be provided prior to the transfer, or, if prior notice is
20 not feasible, as soon as feasible thereafter.

21 (b) Compliance.--The requirements of section 5498.11
22 (relating to compliance) shall apply in the event that the
23 receiving health care provider or health care provider involved
24 in the transfer is unable in good conscience to comply with the
25 POLST or the policies of the health care provider preclude
26 compliance.

27 § 5498.10. Review requirements.

28 (a) Mandatory review.--In the event a patient with a POLST
29 is admitted or transferred to a health care facility, the
30 treating health care provider at the health care facility shall

1 review the POLST as soon as feasible with the patient or the
2 patient's authorized surrogate decision maker. The POLST shall
3 remain effective unless and until modified or voided as a result
4 of the review.

5 (b) Recommended review.--In consultation with the committee,
6 the department shall develop recommendations for other
7 situations in which it is appropriate or advisable for a POLST
8 to be reviewed, giving consideration to the following
9 circumstances:

10 (1) A substantial change in the patient's health status.

11 (2) A change in the patient's goals of care or treatment
12 preferences.

13 § 5498.11. Compliance.

14 (a) Notification by attending physician or health care
15 provider.--If an attending physician or other health care
16 provider cannot in good conscience comply with a POLST or if the
17 policies of a health care provider preclude compliance with a
18 POLST, the attending physician or health care provider shall
19 inform the patient, if the patient is competent, and any
20 surrogate decision maker who consented to the order on behalf of
21 the patient.

22 (b) Transfer.--The attending physician or health care
23 provider under subsection (a) shall make every reasonable effort
24 to assist in the transfer of the patient to another physician or
25 health care provider who will comply with the POLST.

26 (c) Liability.--If transfer under subsection (b) is
27 impossible, the provision of care necessary to sustain life to a
28 patient may not subject an attending physician or a health care
29 provider to criminal or civil liability or administrative
30 sanction for failure to carry out the POLST.

1 (d) Policies.--The department shall require health care
2 facilities to have policies and procedures for implementation of
3 a POLST.

4 § 5498.12. Emergency medical services.

5 (a) Medical command instructions.--Notwithstanding the
6 absence of a do-not-resuscitate order in a POLST, emergency
7 medical services providers shall at all times comply with the
8 instructions of an authorized medical command physician to
9 withhold or discontinue resuscitation.

10 (b) Effect of POLST do-not-resuscitate order.--

11 (1) Emergency medical services providers shall comply
12 with a do-not-resuscitate order in a POLST if made aware of
13 the order. In order to be in compliance with the do-not-
14 resuscitate order in a POLST, an emergency medical service
15 provider must:

16 (i) withhold cardiopulmonary resuscitation from the
17 patient in the event of respiratory and cardiac arrest;
18 or

19 (ii) discontinue and cease cardiopulmonary
20 resuscitation, in the event the emergency medical
21 services provider is presented with a do-not-resuscitate
22 order in a POLST after initiating cardiopulmonary
23 resuscitation.

24 (2) Emergency medical services providers shall provide
25 other medical interventions necessary and appropriate to
26 provide comfort and alleviate pain, including intravenous
27 fluids, medications, oxygen and any other intervention
28 appropriate to the level of the certification of the
29 provider, unless otherwise directed by the patient or the
30 emergency medical services provider's authorized medical

1 command physician.

2 (c) Uncertainty regarding validity or applicability of do-
3 not-resuscitate order in POLST.--

4 (1) Emergency medical services providers who in good
5 faith are uncertain about the validity or applicability of a
6 do-not-resuscitate order in a POLST shall render care in
7 accordance with their level of certification.

8 (2) Emergency medical services providers who act under
9 paragraph (1) may not be subject to civil or criminal
10 liability or administrative sanction for failure to comply
11 with a do-not-resuscitate order in a POLST.

12 (d) Uncertainty regarding validity or applicability of
13 POLST.--Emergency medical services providers are not required
14 to, but may if they deem it necessary, contact the medical
15 command physician prior to complying with a POLST.

16 § 5498.13. Immunity.

17 (a) Compliance.--A health care provider or other person may
18 not be subject to civil or criminal liability or to discipline
19 for unprofessional conduct for complying with a POLST based upon
20 the good faith assumption that the orders therein were valid
21 when made and have not been revoked or terminated.

22 (b) Noncompliance.--A health care provider or other person
23 may not be subject to civil or criminal liability or to
24 discipline for unprofessional conduct for refusing to comply
25 with a POLST on the good faith belief that:

26 (1) The POLST is not valid.

27 (2) Compliance with the POLST would be unethical or, to
28 a reasonable degree of medical certainty, would result in
29 medical care having no medical basis in addressing any
30 medical need or condition of the patient, provided that the

1 health care provider complies in good faith with sections
2 5462(c) (relating to duties of attending physician and health
3 care provider) and 5498.11 (relating to compliance).

4 (c) Other protection.--This section does not limit the
5 immunity available to a health care provider or person under
6 section 5431 (relating to liability) or 5498.12(c)(2) (relating
7 to emergency medical services).

8 § 5498.14. Conflict with advance health care directive.

9 If a POLST conflicts with a provision of an advance health
10 care directive, the provision of the instrument latest in date
11 of execution shall prevail to the extent of the conflict.

12 § 5498.15. POLST executed under prior POLST form.

13 A POLST executed on a POLST form that was valid when executed
14 shall remain valid even if the department subsequently adopts a
15 revised form.

16 § 5498.16. POLST executed under PLSWC form.

17 (a) Validity.--Except as provided under subsection (b), a
18 POLST executed on the PLSWC form prior to the adoption of a
19 POLST form under this subchapter is effective to the same extent
20 as it would be effective if executed on the POLST form.

21 (b) Emergency medical services providers.--Emergency medical
22 services providers are not required to, but may if they deem it
23 necessary, contact the medical command physician prior to
24 complying with a POLST executed on the PLSWC form.

25 (c) Immunity.--For purposes of the immunity under sections
26 5431 (relating to liability) and 5498.13 (relating to immunity),
27 a POLST executed on the PLSWC form shall be deemed to be a POLST
28 executed under this subchapter.

29 § 5498.17. POLST executed in another state or jurisdiction.

30 (a) Validity.--Except as provided under subsection (b), a

1 health care provider may comply with a POLST, or its substantial
2 equivalent executed under the laws of another state or
3 jurisdiction and in conformity with the laws of that state or
4 jurisdiction, if:

5 (1) the order meets the requirements of section
6 5498.2(a)(2), (3) and (4) (relating to requirements for valid
7 POLST); and

8 (2) the health care provider consults, as soon as
9 feasible, with the patient if competent and any surrogate
10 decision maker regarding continued compliance with the order.

11 (b) Exception.--Subsection (a) may not apply to orders
12 executed in another state or jurisdiction to the extent that the
13 order directs procedures or the withholding or withdrawal of
14 procedures under circumstances that are inconsistent with the
15 laws of this Commonwealth, including section 5498.7 (relating to
16 standards for surrogate decision makers).

17 (c) Immunity.--For purposes of the immunity under sections
18 5431 (relating to liability) and 5498.13 (relating to immunity),
19 a POLST, or its substantial equivalent that was executed under
20 the laws of another state or jurisdiction and is valid under
21 subsections (a) and (b), shall be deemed to be a POLST executed
22 under this subchapter.

23 § 5498.18. POLST registry study.

24 (a) Study.--In consultation with the committee and the
25 Pennsylvania eHealth Partnership, the department shall study the
26 feasibility and cost of creating an Internet-based POLST
27 registry that would allow health care providers caring for a
28 patient to obtain a current POLST for the patient.

29 (b) Report.--The department shall report the results of the
30 study to the Health and Human Services Committee of the Senate

1 and the Health Committee of the House of Representatives. The
2 department shall report the status of the study to the
3 committees at least every 180 days until the final results are
4 reported.

5 Section 7. This act shall take effect as follows:

6 (1) The following provisions shall take effect
7 immediately:

8 The addition of 20 Pa.C.S. § 5496.

9 This section.

10 (2) The remainder of this act shall take effect in 90
11 days.