

# House Bill 2132

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Department of Human Services)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Human Services to establish and operate statewide registry for collection and dissemination of physician orders for life-sustaining treatment (POLST). Establishes Oregon POLST Registry Advisory Committee to advise department regarding registry.

Appropriates moneys from General Fund to department to operate registry and committee.

Declares emergency, effective July 1, 2009.

## A BILL FOR AN ACT

1  
2 Relating to registry for physician orders for life-sustaining treatment; creating new provisions;  
3 amending ORS 163.206; appropriating money; and declaring an emergency.

4 Whereas the Legislative Assembly finds that Oregonians should have the ability to determine  
5 the extent of medical treatment they receive as they near the end of their lives; and

6 Whereas a physician order for life-sustaining treatment (POLST) is an effective method of  
7 transforming a patient's preference into a medical order; and

8 Whereas the Oregon POLST Registry will help ensure that each POLST is immediately available  
9 to health care professionals so that patient preferences are known and respected in a time of crisis;  
10 now, therefore,

11 **Be It Enacted by the People of the State of Oregon:**

12 **SECTION 1. Sections 1 to 9 of this 2009 Act shall be known and may be cited as the**  
13 **Oregon POLST Registry Act.**

14 **SECTION 2. As used in sections 1 to 9 of this 2009 Act:**

15 (1) "Authorized user" means a person authorized by the Department of Human Services  
16 to provide information to or receive information from the POLST registry.

17 (2) "Life-sustaining treatment" means any medical procedure, pharmaceutical, medical  
18 device or medical intervention that maintains life by sustaining, restoring or supplanting a  
19 vital function. "Life-sustaining treatment" does not include routine care necessary to sustain  
20 patient cleanliness and comfort.

21 (3) "Nurse practitioner" has the meaning given that term in ORS 678.010.

22 (4) "Physician" has the meaning given that term in ORS 677.010.

23 (5) "Physician assistant" has the meaning given that term in ORS 677.495.

24 (6) "POLST" means a physician order for life-sustaining treatment signed by a physician,  
25 nurse practitioner or physician assistant.

26 (7) "POLST registry" means the registry established in section 4 of this 2009 Act.

27 **SECTION 3. Nothing in sections 1 to 9 of this 2009 Act is intended to require an individual**  
28 **to have a POLST or to require a health professional to authorize or execute a POLST. A**  
29 **POLST may be revoked at any time.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1       **SECTION 4.** (1) The Department of Human Services shall establish and operate a state-  
 2 wide registry for the collection and dissemination of physician orders for life-sustaining  
 3 treatment to help ensure that medical treatment preferences for an individual nearing the  
 4 end of the individual's life are honored.

5       (2) The department shall adopt rules for the registry, including but not limited to rules  
 6 that:

7       (a) Require submission of the following documents to the registry, unless the patient has  
 8 requested to opt out of the registry:

- 9       (A) A copy of each POLST;
- 10       (B) A copy of a revised POLST; and
- 11       (C) Notice of any known revocation of a POLST;

12       (b) Prescribe the manner for submitting information described in paragraph (a) of this  
 13 subsection;

14       (c) Require the release of registry information to authorized users for treatment pur-  
 15 poses;

16       (d) Authorize notification by the registry to specified persons of the receipt, revision or  
 17 revocation of a POLST; and

18       (e) Establish procedures to protect the accuracy and confidentiality of information sub-  
 19 mitted to the registry.

20       (3) The department may permit qualified researchers to access registry data. If the de-  
 21 partment permits qualified researchers to have access to registry data, the department shall  
 22 adopt rules governing the access to data that shall include but need not be limited to:

- 23       (a) The process for a qualified researcher to request access to registry data;
- 24       (b) The types of data that a qualified researcher may be provided from the registry; and
- 25       (c) The manner by which a researcher must protect registry data obtained under this

26 subsection.

27       **SECTION 5.** Nothing in sections 1 to 9 of this 2009 Act requires the Department of Hu-  
 28 man Services to:

- 29       (1) Prescribe the form or content of a POLST;
- 30       (2) Disseminate forms to be used for a POLST;
- 31       (3) Educate the public about POLSTs, generally; or
- 32       (4) Train health care providers about POLSTs.

33       **SECTION 6.** (1) There is established the Oregon POLST Registry Advisory Committee to  
 34 advise the Department of Human Services regarding the implementation, operation and  
 35 evaluation of the POLST registry.

36       (2) The members of the Oregon POLST Registry Advisory Committee shall be appointed  
 37 by the Director of Human Services and shall include, at a minimum:

- 38       (a) A health professional with extensive experience and leadership in POLST issues;
- 39       (b) A physician who is a supervising physician, as defined in ORS 682.025, for emergency  
 40 medical technicians and who has extensive experience and leadership in POLST issues;

41       (c) A representative from the hospital community with extensive experience and leader-  
 42 ship in POLST issues;

43       (d) A representative from the long term care community with extensive experience and  
 44 leadership in POLST issues;

45       (e) A representative from the hospice community with extensive experience and leader-

1 ship in POLST issues;

2 (f) An emergency medical technician actively involved in providing emergency medical  
3 services; and

4 (g) Two members of the public with active interest in end-of-life treatment preferences.

5 (3) The Director of the Emergency Medical Services and Trauma Systems Program  
6 within the Department of Human Services, or a designee of the director, shall serve as a  
7 voting ex officio member of the committee.

8 (4) The Director of Human Services may appoint additional members to the committee.

9 (5) The committee shall meet at least four times per year, at times and places specified  
10 by the Director of Human Services.

11 (6) The Department of Human Services shall provide staff support for the committee.

12 (7) Except for the Director of the Emergency Medical Services and Trauma Systems  
13 Program, a member of the committee shall serve a term of two years. Before the expiration  
14 of the term of a member, the director shall appoint a successor whose term begins on Jan-  
15 uary 2 next following. A member is eligible for reappointment. If there is a vacancy for any  
16 cause, the Director of Human Services shall make an appointment to become immediately  
17 effective for the unexpired term.

18 (8) The Director of Human Services, or a designee of the director, shall consult with the  
19 committee in drafting rules on the implementation, operation and evaluation of the POLST  
20 registry.

21 **SECTION 7.** Notwithstanding the term of office specified in section 6 of this 2009 Act, of  
22 the members described in section 6 (2) of this 2009 Act who are first appointed to the Oregon  
23 POLST Registry Advisory Committee:

24 (1) At least two shall serve for terms ending January 1, 2011.

25 (2) At least three shall serve for terms ending January 1, 2012.

26 (3) At least three shall serve for terms ending January 1, 2013.

27 **SECTION 8.** Except as provided in section 4 of this 2009 Act, all information collected or  
28 developed by the POLST registry that identifies or could be used to identify a patient, health  
29 care provider or facility is confidential and is not subject to civil or administrative subpoena  
30 or to discovery in a civil action, including but not limited to a judicial, administrative, arbi-  
31 tration or mediation proceeding.

32 **SECTION 9.** Any person reporting information to the POLST registry or acting on in-  
33 formation obtained from the POLST registry in good faith is immune from any civil or  
34 criminal liability that might otherwise be incurred or imposed with respect to the reporting  
35 of information to the POLST registry or acting on information obtained from the POLST  
36 registry.

37 **SECTION 10.** There is appropriated to the Department of Human Services, for the  
38 biennium beginning July 1, 2009, out of the General Fund, the amount of \$740,000 for the  
39 purpose of carrying out the provisions of sections 1 to 9 of this 2009 Act.

40 **SECTION 11.** ORS 163.206 is amended to read:

41 163.206. ORS 163.200 and 163.205 do not apply:

42 (1) To a person acting pursuant to a court order, an advance directive or a power of attorney  
43 for health care pursuant to ORS 127.505 to 127.660 or a POLST, as defined in section 2 of this  
44 2009 Act;

45 (2) To a person withholding or withdrawing life-sustaining procedures or artificially adminis-

1 tered nutrition and hydration pursuant to ORS 127.505 to 127.660;

2 (3) When a competent person refuses food, physical care or medical care;

3 (4) To a person who provides an elderly person or a dependent person who is at least 15 years  
4 of age with spiritual treatment through prayer from a duly accredited practitioner of spiritual  
5 treatment as provided in ORS 124.095, in lieu of medical treatment, in accordance with the tenets  
6 and practices of a recognized church or religious denomination of which the elderly or dependent  
7 person is a member or an adherent; or

8 (5) To a duly accredited practitioner of spiritual treatment as provided in ORS 124.095.

9 **SECTION 12. This 2009 Act being necessary for the immediate preservation of the public**  
10 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
11 **July 1, 2009.**

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