

A-Engrossed
Senate Bill 451

Ordered by the Senate April 15
Including Senate Amendments dated April 15

Sponsored by COMMITTEE ON HEALTH CARE AND VETERANS' AFFAIRS (at the request of Oregon Health Fund Board)

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.

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; and declaring an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (A) A copy of each POLST;

14 (B) A copy of a revised POLST; and

15 (C) Notice of any known revocation of a POLST;

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

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

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

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

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

27 (a) The process for a qualified researcher to request access to registry data;

28 (b) The types of data that a qualified researcher may be provided from the registry; and

29 (c) The manner by which a researcher must protect registry data obtained under this
30 subsection.

31 (4) The department may contract with a private or public entity to establish or maintain
32 the registry, and such contract is exempt from the requirements of ORS chapters 279A, 279B
33 and 279C.

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

36 (1) Prescribe the form or content of a POLST;

37 (2) Disseminate forms to be used for a POLST;

38 (3) Educate the public about POLSTs, generally; or

39 (4) Train health care providers about POLSTs.

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

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

45 (a) A health professional with extensive experience and leadership in POLST issues;

1 (b) A physician who is a supervising physician, as defined in ORS 682.025, for emergency
2 medical technicians and who has extensive experience and leadership in POLST issues;

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

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

7 (e) A representative from the hospice community with extensive experience and leader-
8 ship in POLST issues;

9 (f) An emergency medical technician actively involved in providing emergency medical
10 services; and

11 (g) Two members of the public with active interest in end-of-life treatment preferences,
12 at least one of whom represents the interests of minorities.

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

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

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

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

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

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

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

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

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

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

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

40 **SECTION 9.** Any person reporting information to the POLST registry or acting on in-
41 formation obtained from the POLST registry in good faith is immune from any civil or
42 criminal liability that might otherwise be incurred or imposed with respect to the reporting
43 of information to the POLST registry or acting on information obtained from the POLST
44 registry.

45 **SECTION 10.** ORS 163.206 is amended to read:

1 163.206. ORS 163.200 and 163.205 do not apply:

2 (1) To a person acting pursuant to a court order, an advance directive or a power of attorney
3 for health care pursuant to ORS 127.505 to 127.660 **or a POLST, as defined in section 2 of this**
4 **2009 Act;**

5 (2) To a person withholding or withdrawing life-sustaining procedures or artificially adminis-
6 tered nutrition and hydration pursuant to ORS 127.505 to 127.660;

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

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

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

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

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