

Enrolled House Bill 2009

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CHAPTER

AN ACT

Relating to health care; creating new provisions; amending ORS 25.323, 65.800, 87.533, 90.113, 90.440, 92.337, 93.270, 97.210, 97.450, 97.977, 105.580, 106.045, 106.081, 109.094, 109.096, 109.225, 109.251, 109.675, 109.680, 109.685, 109.695, 110.318, 113.085, 113.105, 113.145, 114.525, 114.535, 115.125, 116.093, 116.253, 124.050, 125.060, 127.646, 127.720, 127.865, 130.370, 130.425, 135.139, 135.917, 137.227, 137.228, 137.464, 137.466, 137.658, 144.102, 144.270, 161.315, 161.327, 161.336, 161.341, 161.346, 161.365, 161.370, 161.375, 161.385, 161.390, 163.206, 165.698, 166.250, 166.291, 166.412, 166.470, 169.076, 169.690, 179.010, 179.040, 179.050, 179.055, 179.065, 179.105, 179.110, 179.140, 179.150, 179.210, 179.230, 179.240, 179.321, 179.325, 179.331, 179.360, 179.370, 179.375, 179.380, 179.385, 179.390, 179.450, 179.460, 179.473, 179.479, 179.490, 179.492, 179.505, 179.509, 179.610, 179.620, 179.640, 179.653, 179.655, 179.660, 179.701, 179.711, 179.731, 179.740, 179.745, 179.770, 181.537, 181.637, 182.415, 182.515, 182.535, 184.345, 192.517, 192.519, 192.527, 192.535, 192.537, 192.539, 192.547, 192.549, 192.630, 197.660, 198.792, 199.461, 199.490, 199.495, 199.512, 222.120, 222.850, 222.860, 222.870, 222.875, 222.880, 222.883, 222.885, 222.890, 222.897, 222.900, 222.911, 244.050, 247.570, 276.180, 276.610, 276.612, 278.315, 279A.050, 285A.213, 285B.563, 291.371, 314.840, 315.604, 315.613, 320.308, 323.455, 323.625, 332.111, 336.222, 336.227, 336.235, 336.245, 339.333, 339.505, 339.869, 343.221, 343.499, 343.961, 345.535, 346.015, 346.035, 348.320, 351.105, 352.008, 401.259, 401.300, 401.347, 401.654, 401.657, 401.661, 401.667, 401.670, 401.871, 408.305, 408.310, 408.320, 408.325, 408.380, 408.570, 408.580, 409.010, 409.320, 409.330, 409.410, 409.420, 409.425, 409.430, 409.435, 409.500, 409.520, 409.530, 409.540, 409.600, 409.619, 409.621, 409.623, 409.625, 409.720, 409.740, 409.745, 409.747, 411.620, 411.708, 414.025, 414.033, 414.034, 414.042, 414.049, 414.051, 414.065, 414.073, 414.105, 414.106, 414.109, 414.115, 414.125, 414.135, 414.145, 414.151, 414.153, 414.211, 414.221, 414.225, 414.227, 414.312, 414.314, 414.316, 414.318, 414.320, 414.325, 414.327, 414.329, 414.330, 414.332, 414.334, 414.336, 414.338, 414.350, 414.355, 414.360, 414.365, 414.375, 414.380, 414.390, 414.410, 414.420, 414.426, 414.428, 414.534, 414.536, 414.538, 414.540, 414.630, 414.640, 414.707, 414.708, 414.709, 414.710, 414.712, 414.720, 414.725, 414.727, 414.728, 414.735, 414.736, 414.737, 414.738, 414.739, 414.740, 414.741, 414.742, 414.743, 414.750, 414.751, 414.805, 414.807, 414.815, 414.839, 416.430, 416.510, 416.530, 416.540, 416.550, 416.560, 416.570, 416.580, 416.590, 416.600, 416.610, 416.990, 417.346, 417.728, 417.730, 417.735, 417.795, 417.845, 418.704, 418.706, 419B.005, 419B.839, 419C.239, 419C.443, 419C.507, 419C.529, 419C.530, 419C.532, 419C.533, 419C.538, 419C.542, 420.505, 420.870, 420A.135, 420A.145, 420A.155, 421.504, 426.005, 426.010, 426.020, 426.060, 426.070, 426.072, 426.074, 426.075, 426.095, 426.110, 426.120, 426.127, 426.130, 426.140, 426.150, 426.170, 426.180, 426.217, 426.220, 426.223, 426.225, 426.228, 426.231, 426.232, 426.233, 426.234, 426.235, 426.236, 426.237, 426.238, 426.241, 426.250, 426.273, 426.275, 426.278, 426.292, 426.300, 426.301, 426.303, 426.307, 426.330, 426.335, 426.370, 426.385, 426.395, 426.415, 426.495, 426.500, 426.502, 426.504, 426.506, 426.508, 426.650, 426.670, 426.675, 426.680,

(b) The anticipated number of procedures to be performed per year for a five-year period commencing on the date the service is started or the technology is acquired.

(c) The anticipated number of patients to be served by the applicant, based on the incidence in the population to be served or the conditions for which the technology or service will be used.

(d) Clinical indications for ordering use of the technology or service, with appropriate references to relevant literature.

(e) An estimate of the treatment decisions likely to result from use of the technology or service.

(f) A proposed method for collecting data on the patients served, costs engendered directly or indirectly and the health outcomes resulting from use of the technology or service.

(2) An application shall be decided in accordance with the statutes and rules in effect at the time of filing of a completed letter of intent for that application.

PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT REGISTRY

SECTION 1181. Sections 1181 to 1189 of this 2009 Act shall be known and may be cited as the Oregon POLST Registry Act.

SECTION 1182. As used in sections 1181 to 1189 of this 2009 Act:

(1) “Authorized user” means a person authorized by the Oregon Health Authority to provide information to or receive information from the POLST registry.

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

(3) “Nurse practitioner” has the meaning given that term in ORS 678.010.

(4) “Physician” has the meaning given that term in ORS 677.010.

(5) “Physician assistant” has the meaning given that term in ORS 677.495.

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

(7) “POLST registry” means the registry established in section 1184 of this 2009 Act.

SECTION 1183. Nothing in sections 1181 to 1189 of this 2009 Act is intended to require an individual to have a POLST or to require a health professional to authorize or execute a POLST. A POLST may be revoked at any time.

SECTION 1184. (1) The Oregon Health Authority shall establish and operate a statewide registry for the collection and dissemination of physician orders for life-sustaining treatment to help ensure that medical treatment preferences for an individual nearing the end of the individual’s life are honored.

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

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

(A) A copy of each POLST;

(B) A copy of a revised POLST; and

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

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

(c) Require the release of registry information to authorized users for treatment purposes;

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

(e) Establish procedures to protect the accuracy and confidentiality of information submitted to the registry.

(3) The authority may permit qualified researchers to access registry data. If the authority permits qualified researchers to have access to registry data, the authority shall adopt rules governing the access to data that shall include but need not be limited to:

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

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

SECTION 1185. Nothing in sections 1181 to 1189 of this 2009 Act requires the Oregon Health Authority to:

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

SECTION 1186. (1) There is established the Oregon POLST Registry Advisory Committee to advise the Oregon Health Authority regarding the implementation, operation and evaluation of the POLST registry.

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

- (a) A health professional with extensive experience and leadership in POLST issues;
- (b) A physician who is a supervising physician, as defined in ORS 682.025, for emergency medical technicians and who has extensive experience and leadership in POLST issues;
- (c) A representative from the hospital community with extensive experience and leadership in POLST issues;
- (d) A representative from the long term care community with extensive experience and leadership in POLST issues;
- (e) A representative from the hospice community with extensive experience and leadership in POLST issues;
- (f) An emergency medical technician actively involved in providing emergency medical services; and
- (g) Two members of the public with active interest in end-of-life treatment preferences, at least one of whom represents the interests of minorities.

(3) The Director of the Emergency Medical Services and Trauma Systems Program within the Oregon Health Authority, or a designee of the director, shall serve as a voting ex officio member of the committee.

(4) The Director of the Oregon Health Authority may appoint additional members to the committee.

(5) The committee shall meet at least four times per year, at times and places specified by the Director of the Oregon Health Authority.

(6) The Oregon Health Authority shall provide staff support for the committee.

(7) Except for the Director of the Emergency Medical Services and Trauma Systems Program, a member of the committee shall serve a term of two years. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on January 2 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Director of the Oregon Health Authority shall make an appointment to become immediately effective for the unexpired term.

(8) The Director of the Oregon Health Authority, or a designee of the director, shall consult with the committee in drafting rules on the implementation, operation and evaluation of the POLST registry.

SECTION 1187. Notwithstanding the term of office specified in section 1186 of this 2009 Act, of the members described in section 1186 (2) of this 2009 Act who are first appointed to the Oregon POLST Registry Advisory Committee:

- (1) At least two shall serve for terms ending January 1, 2011.
- (2) At least three shall serve for terms ending January 1, 2012.
- (3) At least three shall serve for terms ending January 1, 2013.

SECTION 1188. Except as provided in section 1184 of this 2009 Act, all information collected or developed by the POLST registry that identifies or could be used to identify a patient, health care provider or facility is confidential and is not subject to civil or administrative subpoena or to discovery in a civil action, including but not limited to a judicial, administrative, arbitration or mediation proceeding.

SECTION 1189. Any person reporting information to the POLST registry or acting on information obtained from the POLST registry in good faith is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the reporting of information to the POLST registry or acting on information obtained from the POLST registry.

SECTION 1190. ORS 163.206 is amended to read:
163.206. ORS 163.200 and 163.205 do not apply:

(1) To a person acting pursuant to a court order, an advance directive or a power of attorney for health care pursuant to ORS 127.505 to 127.660 or a POLST, as defined in section 1182 of this 2009 Act;

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

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

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

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

UNIFORM STANDARDS FOR HEALTH INSURERS

SECTION 1191. Sections 1192, 1194 and 1195 of this 2009 Act are added to and made a part of the Insurance Code.

SECTION 1192. The Director of the Department of Consumer and Business Services may establish by rule uniform standards applicable to health insurers licensed by the Department of Consumer and Business Services that incorporate the standards developed by the Office for Oregon Health Policy and Research pursuant to section 1193 of this 2009 Act.

SECTION 1193. (1) The Office for Oregon Health Policy and Research shall convene a stakeholder workgroup to develop uniform standards for health insurers licensed in this state, including but not limited to standards for:

- (a) Eligibility verification.
- (b) Health care claims processes.
- (c) Payment and remittance advice.

(2) The Office for Oregon Health Policy and Research shall report on progress toward the development of uniform standards under subsection (1) of this section to the appropriate interim committee of the Legislative Assembly no later than October 1, 2009.

DATA REPORTING BY INSURANCE CARRIERS