

AMENDED IN SENATE JULY 2, 2008

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN SENATE MAY 20, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3000**

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**Introduced by Assembly Member Wolk**  
**(Principal coauthor: Assembly Member Berg)**  
**(~~Coauthor: Assembly Member Huffman~~ Coauthors: Assembly**  
**Members *Huffman and Krekorian*)**  
(Coauthor: Senator Kuehl)

February 22, 2008

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An act to amend Sections 4780, 4782, 4783, 4784, and 4785 of, to amend the heading of Part 4 (commencing with Section 4780) of Division 4.7 of, and to add Sections 4781.2, 4781.4, and 4781.5 to, the Probate Code, relating to health care decisions.

LEGISLATIVE COUNSEL'S DIGEST

AB 3000, as amended, Wolk. Health care decisions: life-sustaining treatment.

Existing law defines a "request to forgo resuscitative measures" as a written document, signed by an individual, or a legally recognized surrogate health care decisionmaker, and a physician, that directs a health care provider to forgo resuscitative measures for the individual. Existing law provides that a health care provider who honors a request to forgo resuscitative measures is not subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, as a result of his or her reliance on the request, provided that he or she meets certain requirements.

This bill would *make findings and declarations regarding health care planning. The bill would* redefine a request to forgo resuscitative measures as a “request regarding resuscitative measures,” which would be a written document, signed by an individual *with capacity*, or a legally recognized health care decisionmaker, and ~~a that individual’s~~ physician, that directs a health care provider regarding resuscitative measures. The bill would include within this definition a Physician Orders for Life Sustaining Treatment (*POLST*) form, as specified. The bill would authorize a legally recognized health care decisionmaker to execute the ~~Physician Orders for Life Sustaining Treatment~~ *POLST* form only if the individual lacks capacity, or the individual has designated that the decisionmaker’s authority is effective, and would require a health care provider to explain the form, as specified. *The bill would allow an individual having capacity to revoke a POLST form, as specified.* The bill would require a health care provider to treat an individual in accordance with a ~~Physician Orders for Life Sustaining Treatment~~ *POLST* form, except as specified, and would permit a physician to conduct an evaluation of the individual and issue a new order consistent with the most current information available about the individual’s health status and goals of care. The bill would require the legally recognized health care decisionmaker of an individual without capacity to consult with the individual’s treating physician prior to making a request to modify that individual’s ~~Physician Orders for Life Sustaining Treatment~~ *POLST* form, and would provide that an individual with capacity may at any time request alternative treatment to that treatment that was ordered on the form. The bill would provide that if the orders in ~~a patient’s~~ *an individual’s* request regarding resuscitative measures directly conflict with ~~the patient’s~~ *his or her* individual health care instruction, the most recent order or instruction is effective. The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) It is important for people to make health care decisions*
- 4     *before it is necessary.*

1 (b) Health care planning is a process, rather than a single  
2 decision, that helps individuals think about the kind of care they  
3 would want if they become seriously ill or incapacitated, and  
4 encourages them to talk with their loved ones and physicians.

5 (c) Advance directives give individuals the ability to put their  
6 wishes in writing and to identify the person who would speak for  
7 them should they become unable to speak for themselves.

8 (d) The Physician Orders for Life Sustaining Treatment (POLST)  
9 form complements an advance directive by taking the individual's  
10 wishes regarding life-sustaining treatment, such as those set forth  
11 in the advance directive, and converting those wishes into a  
12 medical order.

13 (e) The hallmarks of a POLST form are (1) immediately  
14 actionable, signed medical orders on a standardized form, (2)  
15 orders that address a range of life-sustaining interventions as well  
16 as the patient's preferred intensity of treatment for each  
17 intervention, (3) a brightly colored, clearly identifiable form, and  
18 (4) a form that is recognized, adopted, and honored across  
19 treatment settings.

20 (f) A POLST is particularly useful for individuals who are frail  
21 and elderly or who have a compromised medical condition, a  
22 prognosis of one year of life, or a terminal illness.

23 ~~SECTION 1.~~

24 SEC. 2. The heading of Part 4 (commencing with Section 4780)  
25 of Division 4.7 of the Probate Code is amended to read:

26

27 PART 4. REQUEST REGARDING RESUSCITATIVE  
28 MEASURES

29

30 ~~SEC. 2.~~

31 SEC. 3. Section 4780 of the Probate Code is amended to read:  
32 4780. (a) As used in this part:

33 (1) "Request regarding resuscitative measures" means a written  
34 document, signed by (A) an individual *with capacity*, or a legally  
35 recognized health care decisionmaker, and (B) ~~a~~ *the individual's*  
36 physician, that directs a health care provider regarding resuscitative  
37 measures. A request regarding resuscitative measures is not an  
38 ~~advanced~~ *advance* health care directive.

39 (2) "Request regarding resuscitative measures" includes one,  
40 or both of, the following:

1 (A) A prehospital “do not resuscitate” form as developed by  
 2 the Emergency Medical Services Authority or other substantially  
 3 similar form.

4 (B) A Physician Orders for Life Sustaining Treatment form, as  
 5 approved by the Emergency Medical Services Authority.

6 (3) “Physician Orders for Life Sustaining Treatment form”  
 7 means a request regarding resuscitative measures that directs a  
 8 health care provider regarding resuscitative and life-sustaining  
 9 measures.

10 (b) A legally recognized health care decisionmaker may execute  
 11 the Physician Orders for Life Sustaining Treatment form only if  
 12 the individual lacks capacity, or the individual has designated that  
 13 the decisionmaker’s authority is effective pursuant to Section 4682.

14 (c) The Physician Orders for Life Sustaining Treatment form  
 15 and medical intervention and procedures offered by the form shall  
 16 be explained by a health care provider, as defined in Section 4621.  
 17 The form shall be completed by a health care provider based on  
 18 patient preferences and medical indications, and signed by a  
 19 physician *and the patient or his or her legally recognized health*  
 20 *care decisionmaker. The health care provider, during the process*  
 21 *of completing the Physician Orders for Life Sustaining Treatment*  
 22 *form, should inform the patient about the difference between an*  
 23 *advance health care directive and the Physician Orders for Life*  
 24 *Sustaining Treatment form.*

25 (d) *An individual having capacity may revoke a Physician*  
 26 *Orders for Life Sustaining Treatment form at any time and in any*  
 27 *manner that communicates an intent to revoke, consistent with*  
 28 *Section 4695.*

29 (d)

30 (e) A request regarding resuscitative measures may also be  
 31 evidenced by a medallion engraved with the words “do not  
 32 resuscitate” or the letters “DNR,” a patient identification number,  
 33 and a 24-hour toll-free telephone number, issued by a person  
 34 pursuant to an agreement with the Emergency Medical Services  
 35 Authority.

36 ~~SEC. 3.~~

37 *SEC. 4.* Section 4781.2 is added to the Probate Code, to read:

38 4781.2. (a) A health care provider shall treat an individual in  
 39 accordance with a Physician Orders for Life Sustaining Treatment  
 40 form.

1 (b) Subdivision (a) does not apply if the Physician Orders for  
2 Life Sustaining Treatment form requires medically ineffective  
3 health care or health care contrary to generally accepted health  
4 care standards applicable to the health care provider or institution.

5 (c) A physician may conduct an evaluation of the individual  
6 and, if possible, in consultation with the individual, or the  
7 individual's legally recognized health care decisionmaker, issue  
8 a new order consistent with the most current information available  
9 about the individual's health status and goals of care.

10 (d) The legally recognized health care decisionmaker of an  
11 individual without capacity shall consult with the *physician who*  
12 *is, at that time, the* individual's treating physician prior to making  
13 a request to modify that individual's Physician Orders for Life  
14 Sustaining Treatment form.

15 (e) An individual with capacity may, at any time, request  
16 alternative treatment to that treatment that was ordered on the form.

17 ~~SEC. 4.~~

18 *SEC. 5.* Section 4781.4 is added to the Probate Code, to read:

19 4781.4. If the orders in ~~a patient's~~ *an individual's* request  
20 regarding resuscitative measures directly conflict with ~~the patient's~~  
21 *his or her* individual health care instruction, as defined in Section  
22 4623, then, to the extent of the conflict, the most recent order or  
23 instruction is effective.

24 ~~SEC. 5.~~

25 *SEC. 6.* Section 4781.5 is added to the Probate Code, to read:

26 4781.5. The legally recognized health care decisionmaker shall  
27 make health care decisions pursuant to this part in accordance with  
28 Sections 4684 and 4714.

29 ~~SEC. 6.~~

30 *SEC. 7.* Section 4782 of the Probate Code is amended to read:

31 4782. A health care provider who honors a request regarding  
32 resuscitative measures is not subject to criminal prosecution, civil  
33 liability, discipline for unprofessional conduct, administrative  
34 sanction, or any other sanction, as a result of his or her reliance  
35 on the request, if the health care provider (a) believes in good faith  
36 that the action or decision is consistent with this part, and (b) has  
37 no knowledge that the action or decision would be inconsistent  
38 with a health care decision that the individual signing the request  
39 would have made on his or her own behalf under like  
40 circumstances.

1 ~~SEC. 7.~~

2 *SEC. 8.* Section 4783 of the Probate Code is amended to read:

3 4783. (a) Forms for requests regarding resuscitative measures  
4 printed after January 1, 1995, shall contain the following:

5 “By signing this form, the legally recognized health care  
6 decisionmaker acknowledges that this request regarding  
7 resuscitative measures is consistent with the known desires of, and  
8 with the best interest of, the individual who is the subject of the  
9 form.”

10 (b) A printed form substantially similar to that described in  
11 subparagraph (A) of paragraph (2) of subdivision (a) of Section  
12 4780 is valid and enforceable if all of the following conditions are  
13 met:

14 (1) The form is signed by the individual, or the individual’s  
15 legally recognized health care decisionmaker, and a physician.

16 (2) The form directs health care providers regarding resuscitative  
17 measures.

18 (3) The form contains all other information required by this  
19 section.

20 ~~SEC. 8.~~

21 *SEC. 9.* Section 4784 of the Probate Code is amended to read:

22 4784. In the absence of knowledge to the contrary, a health  
23 care provider may presume that a request regarding resuscitative  
24 measures is valid and unrevoked.

25 ~~SEC. 9.~~

26 *SEC. 10.* Section 4785 of the Probate Code is amended to read:

27 4785. This part applies regardless of whether the individual  
28 executing a request regarding resuscitative measures is within or  
29 outside a hospital or other health care institution.

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32 **CORRECTIONS:**

33 **Text—Pages 4 and 5.**

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