

AMENDED IN SENATE MARCH 25, 2015

SENATE BILL

No. 19

Introduced by Senator Wolk

(Coauthors: ~~Senators Monning~~ *Hancock, Monning, and Vidak*)

(Coauthors: Assembly Members ~~Bonilla~~ *Bonilla, Dababneh, and Eggman*)

December 1, 2014

An act to add Section 4788 to the Probate Code, relating to resuscitative measures.

LEGISLATIVE COUNSEL'S DIGEST

SB 19, as amended, Wolk. Physician Orders for Life Sustaining Treatment form: statewide registry.

Existing law defines a request regarding resuscitative measures as a written document, signed by an individual with capacity, or a legally recognized health care decisionmaker, and the individual's physician, directing a health care provider regarding resuscitative measures. Existing law defines a Physician Orders for Life Sustaining Treatment form, which is commonly referred to as a POLST form, and provides that a request regarding resuscitative measures includes a POLST form. Existing law requires that a POLST form and the medical intervention and procedures offered by the form be explained by a health care provider. Existing law distinguishes a request regarding resuscitative measures from an advance health care directive.

This bill would enact the California POLST Registry Act. The bill would require the California Health and Human Services Agency to establish and operate a statewide registry system, to be known as the California POLST Registry, for the purpose of collecting POLST forms received from ~~health care providers~~. ~~Health care providers~~ *a physician*

*or physician designee. A physician or physician designee who complete completes a POLST form would be required to include the POLST form in the patient’s medical record and would be required to submit the form to the registry, unless a patient or his or her health care decisionmaker chooses not to participate in the registry. The bill would require the agency to disseminate the information in the POLST form to an authorized user. The bill defines “authorized user” to include a health care provider. The bill would require the agency to adopt rules for, among other things, the operation of the registry, including the means by which POLST forms would be submitted electronically, revised, and revoked, the capability to check the POLST form for accuracy prior to it being made available, the appropriate and timely methods for dissemination of POLST form information, the procedures for verifying the identity of an authorized user, and rules for maintaining the confidentiality of a POLST form received by the registry. The bill would require that any disclosure of POLST form information in the registry be made in accordance with applicable *state and federal privacy and security laws and regulations*. The bill would provide immunity for an authorized user who acts upon information obtained from the registry and acts in good faith.*

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

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

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 California POLST Registry Act.
- 3 SEC. 2. Section 4788 is added to the Probate Code, to read:
- 4 4788. (a) For purposes of this section:
- 5 (1) “Agency” means the California Health and Human Services
- 6 Agency.
- 7 (2) “Authorized user” means a person authorized by the agency
- 8 to submit information to, or to receive information from, the
- 9 POLST registry, including health care ~~providers~~. *providers and*
- 10 *their designees*.
- 11 (3) “Health care provider” has the meaning provided in Section
- 12 4621.
- 13 (4) “POLST form” means a Physician Orders for Life Sustaining
- 14 Treatment form that fulfills the requirements of Section 4780.

1 (5) “Registry” means the California POLST Registry established
2 by the agency pursuant to this section.

3 (b) The agency shall establish and operate a statewide registry
4 system, to be known as the California POLST Registry, for the
5 purpose of collecting a POLST form received from a ~~health care~~
6 ~~provider~~ *physician or physician designee* and disseminating the
7 information in the form to an authorized user. The registry may
8 be operated and maintained by a contractor of the agency. The
9 agency shall adopt all rules necessary for the operation of the
10 registry, which shall include, but not be limited to, the following:

11 (1) The means by which ~~a~~ *an initial or subsequent* POLST form
12 may be submitted to, *or withdrawn from*, the registry, ~~may be~~
13 ~~revised, and may be revoked~~, which shall include a method for
14 electronic delivery of this information and the use of legally
15 sufficient electronic signatures.

16 (2) Appropriate and timely methods by which the information
17 in the registry may be disseminated to an authorized user.

18 (3) Procedures for verifying the identity of an authorized user.

19 (4) Procedures to ensure the accuracy of, and to appropriately
20 protect the confidentiality of, POLST forms submitted to the
21 registry.

22 (5) The requirement that a patient, ~~or~~ *or, when appropriate*, his
23 or her legally recognized health care decisionmaker, receive a
24 confirmation or a receipt that the patient’s POLST form has been
25 received by the registry.

26 (6) The ability of *the physician who signed the POLST form,*
27 *or his or her designee, and of a patient,* ~~or~~ *or, when appropriate*,
28 his or her legally recognized health care decisionmaker, to review
29 the information in the patient’s POLST form after it has been
30 entered into the registry, and to confirm that it is accurate, prior
31 to the information being available to an authorized user.

32 (7) The ability of a patient, ~~or~~ *or, when appropriate*, his or her
33 legally recognized health care decisionmaker, to ~~amend~~ ~~or~~
34 withdraw a POLST form from the registry.

35 ~~(e) The registry and the information it contains shall be the~~
36 ~~property of the state and any disclosure of information in a POLST~~
37 ~~form received by the registry shall be made in a manner consistent~~
38 ~~with the federal Health Insurance Portability and Accountability~~
39 ~~Act of 1996 (Public Law 104-191).~~

1 (c) *The operation of the registry shall comply with state and*
2 *federal privacy and security laws and regulations, including, but*
3 *not limited to, compliance with the Confidentiality of Medical*
4 *Information Act (Part 2.6 (commencing with Section 56) of Division*
5 *1 of the Civil Code) and the regulations promulgated pursuant to*
6 *the Health Insurance Portability and Accountability Act of 1996,*
7 *found at parts 160 and 164 of Title 45 of the Code of Federal*
8 *Regulations.*

9 (d) ~~A health care provider~~ *physician or physician designee* who
10 completes a POLST form with a patient or his or her legally
11 recognized health care decisionmaker shall include the POLST
12 form in the patient’s official medical record. ~~The health care~~
13 ~~provider~~ *physician or physician designee* shall submit a copy of
14 the POLST form to the registry unless the patient or the legally
15 recognized health care decisionmaker chooses not to participate
16 in the registry.

17 (e) An authorized user acting upon information obtained from
18 the registry is not subject to criminal prosecution, civil liability,
19 discipline for unprofessional conduct, administrative sanction, or
20 any other sanction, if the person acted in good faith and had no
21 knowledge that the action or decision would be inconsistent with
22 a health care decision that the individual signing the POLST form
23 would have made on his or her own behalf, or on behalf of the
24 patient, under the circumstances.