

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE MARCH 25, 2015

SENATE BILL

No. 19

Introduced by Senator Wolk

(Coauthors: Senators Hancock, Monning, and Vidak)

(Coauthors: Assembly Members 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 a physician or physician’s designee. The bill would require the agency to implement these provisions only after it determines that sufficient nonstate ~~finds~~ *funds* have been received for development of the registry and any related startup costs. A physician or physician’s designee who 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 would define “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 from criminal prosecution, civil liability, discipline for unprofessional conduct, and any other sanction for a health care provider who honors a patient’s request regarding resuscitative measures obtained from the registry, as specified.

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

1 POLST registry, including health care providers and their
2 designees.

3 (3) “Health care provider” has the meaning provided in Section
4 4621.

5 (4) “POLST form” means a Physician Orders for Life Sustaining
6 Treatment form that fulfills the requirements of Section 4780.

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

9 (b) (1) The agency shall establish and operate a statewide
10 registry system, to be known as the California POLST Registry,
11 for the purpose of collecting a POLST form received from a
12 physician or physician’s designee and disseminating the
13 information in the form to an authorized user.

14 (2) The agency shall implement this section only after
15 determining that sufficient nonstate funds have been received to
16 allow for the development of the registry and any related startup
17 costs.

18 (3) The registry may be operated and maintained by a contractor
19 of the agency. The agency shall adopt all rules necessary for the
20 operation of the registry, which shall include, but not be limited
21 to, the following:

22 (A) The means by which an initial or subsequent POLST form
23 may be submitted to, or withdrawn from, the registry, which shall
24 include a method for electronic delivery of this information and
25 the use of legally sufficient electronic signatures.

26 (B) Appropriate and timely methods by which the information
27 in the registry may be disseminated to an authorized user.

28 (C) Procedures for verifying the identity of an authorized user.

29 (D) Procedures to ensure the accuracy of, and to appropriately
30 protect the confidentiality of, POLST forms submitted to the
31 registry.

32 (E) The requirement that a patient, or, when appropriate, his or
33 her legally recognized health care decisionmaker, receive a
34 confirmation or a receipt that the patient’s POLST form has been
35 received by the registry.

36 (F) The ability of the physician who signed the POLST form,
37 or his or her designee, and of a patient, or, when appropriate, his
38 or her legally recognized health care decisionmaker, to review the
39 information in the patient’s POLST form after it has been entered

1 into the registry, and to confirm that it is accurate, prior to the
2 information being available to an authorized user.

3 (G) The ability of a patient, or, when appropriate, his or her
4 legally recognized health care decisionmaker, to withdraw a
5 POLST form from the registry.

6 (c) The operation of the registry shall comply with state and
7 federal privacy and security laws and regulations, including, but
8 not limited to, compliance with the Confidentiality of Medical
9 Information Act (Part 2.6 (commencing with Section 56) of
10 Division 1 of the Civil Code) and the regulations promulgated
11 pursuant to the federal Health Insurance Portability and
12 Accountability Act of 1996 (Public Law 104-191), found at Parts
13 160 and 164 of Title 45 of the Code of Federal Regulations.

14 (d) A physician or physician's designee who completes a POLST
15 form with a patient or his or her legally recognized health care
16 decisionmaker shall include the POLST form in the patient's
17 official medical record. The physician or physician's designee
18 shall submit a copy of the POLST form to the registry unless the
19 patient or the legally recognized health care decisionmaker chooses
20 not to participate in the registry.

21 (e) ~~A~~*In accordance with Section 4782, a health care provider*
22 *who honors a patient's request regarding resuscitative measures*
23 *obtained from the registry shall not be subject to criminal*
24 *prosecution, civil liability, discipline for unprofessional conduct,*
25 *administrative sanction, or any other sanction as set forth in Section*
26 ~~4782 of the Probate Code.~~ *sanction, if the health care provider (1)*
27 *believes in good faith that the action or decision is consistent with*
28 *this part, and (2) has no knowledge that the action or decision*
29 *would be inconsistent with a health care decision that the*
30 *individual signing the request would have made on his or her own*
31 *behalf under like circumstances.*