

ACT 186

H.B. NO. 1379

A Bill for an Act Relating to Physician Orders for Life Sustaining Treatment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT**

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Department” means the department of health.

“Form” means a physician orders for life-sustaining treatment form adopted by the department.

“Health care provider” means an individual licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of the individual’s business or profession.

“Patient’s physician” means a physician licensed pursuant to chapter 453 who has examined the patient.

“Physician orders for life-sustaining treatment form” means a form signed by a patient, or if incapacitated, by the patient’s surrogate and the pa-

tient's physician, that records the patient's wishes and that directs a health care provider regarding the provision of resuscitative and life-sustaining measures. A physician orders for life-sustaining treatment form is not an advance health-care directive.

"Surrogate" shall have the same meaning as in section 327E-2.

§ -2 Physician orders for life-sustaining treatment form; execution; explanation; compliance; revocation. (a) The following may execute a form:

- (1) The patient;
- (2) The patient's physician; and
- (3) The surrogate, but only if the patient:
 - (A) Lacks capacity; or
 - (B) Has designated that the surrogate is authorized to execute the form.

The patient's physician may medically evaluate the patient and, based upon the evaluation, may recommend new orders consistent with the most current information available about the individual's health status and goals of care. The patient's physician shall consult with the patient or the patient's surrogate before issuing any new orders on a form. The patient or the patient's surrogate may choose to execute or not execute any new form. If a patient is incapacitated, the patient's surrogate shall consult with the patient's physician before requesting the patient's physician to modify treatment orders on the form. To be valid, a form shall be signed by the patient's physician and the patient, or the patient's physician and the patient's surrogate. At any time, a patient, or, if incapacitated, the patient's surrogate, may request alternative treatment that differs from the treatment indicated on the form.

(b) The patient's physician or a health care provider shall explain to the patient the nature and content of the form, including any medical intervention or procedures, and shall also explain the difference between an advance health-care directive and the form. The form shall be prepared by the patient's physician or a health care provider based on the patient's preferences and medical indications.

(c) Any health care provider, including the patient's physician, emergency medical services personnel, and emergency physicians shall comply with a properly executed and signed form and treat the patient according to the orders on the form; provided that compliance shall not be required if the orders on the form request medically ineffective health care or health care that is contrary to generally accepted health care standards.

(d) A patient having capacity, or, if the patient is incapacitated, the patient's surrogate, may revoke a form at any time and in any manner that communicates intent to revoke.

§ -3 Immunity. (a) No physician, health care professional, nurse's aide, hospice provider, home care provider, including private duty and medicare home health providers, emergency medical services provider, adult residential care home operator, skilled nursing facility operator, hospital, or person employed by or under contract with a hospital shall be subject to criminal prosecution, civil liability, or be deemed to have engaged in unprofessional conduct for:

- (1) Carrying out in good faith, a decision regarding treatment orders, including cardiopulmonary resuscitation by or on behalf of a patient pursuant to orders in a form and in compliance with the standards and procedures set forth in this chapter; or

(2) Providing cardiopulmonary resuscitation to a patient for whom an order not to resuscitate has been issued on a form; provided the person reasonably and in good faith:

(A) Was unaware of the issuance of an order not to resuscitate; or

(B) Believed that any consent to treatment orders, including the order not to resuscitate, had been revoked or canceled.

(b) No person shall be subject to criminal prosecution or civil liability for consenting or declining to consent, in good faith and on behalf of a patient, to the issuance of an order not to resuscitate pursuant to this chapter.

§ -4 Rules. The director of health may adopt rules in accordance with chapter 91 to carry out this chapter.”

SECTION 2. This Act shall take effect upon its approval.

(Became law on July 15, 2009, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)