

ORDER FOR LIFE SUSTAINING TREATMENT**AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill modifies provisions related to orders for life sustaining treatment.

Highlighted Provisions:

This bill:

► modifies professional conduct standards for physicians, advance practice registered nurses, and physician assistants ~~to include obtaining a parent or guardian signature when completing an order for life sustaining treatment for a minor~~ related to do not resuscitate orders ~~to include~~ ; and

► makes technical and conforming changes ~~to include~~ related orders for life sustaining treatment ~~to include~~ .

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:****58-31b-502**, as last amended by Laws of Utah 2023, Chapters 223, 301 and 329**58-67-502**, as last amended by Laws of Utah 2023, Chapters 2, 301, 317, and 329**58-68-502**, as last amended by Laws of Utah 2023, Chapters 2, 301, 317, and 329**58-70a-503**, as last amended by Laws of Utah 2023, Chapter 329**75-2a-103**, as last amended by Laws of Utah 2023, Chapters 139, 330

75-2a-106, as last amended by Laws of Utah 2023, Chapter 330

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-31b-502** is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services

under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) violating Section 58-31b-801;

(o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(p) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the person licensed or certified under the provisions of this chapter is found guilty of a crime in connection with the violation;

(q) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (n) or Subsection 58-1-501(1); [or]

(r) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis[-]; or

(s) for an advance practice registered nurse, ~~Ĥ→ [failing to comply with Subsection 75-2a-106(3)(b)(iii) when completing an order for life sustaining treatment for the minor]~~

~~designating a child as do not resuscitate without parental consent ←Ĥ~~ .

(2) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when registered as a qualified medical provider, or acting as a limited medical provider, as those terms are defined in Section 26B-4-201, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 2. Section **58-67-502** is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section **58-1-501**:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section **58-67-302.7** or **58-67-302.8**;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(e) performing or inducing an abortion in violation of the requirements of Section **76-7-302** or Section **76-7a-201**, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection **58-1-501**(1); ~~or~~

(g) performing, or causing to be performed, upon an individual who is less than 18 years old:

(i) a primary sex characteristic surgical procedure; or

(ii) a secondary sex characteristic surgical procedure~~[-]; or~~

(h) ~~Failure to comply with Subsection 75-2a-106(3)(b)(iii) when completing an order for life sustaining treatment for the minor]~~ **designating a child as do not resuscitate without parental consent** ~~←H~~ .

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section **58-85-103**:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device;

121 or

122 (b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and
123 Medical Cannabis:

124 (i) when registered as a qualified medical provider or acting as a limited medical
125 provider, as those terms are defined in Section 26B-4-201, recommending the use of medical
126 cannabis; or

127 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
128 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy.

129 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
130 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
131 unprofessional conduct for a physician described in Subsection (2)(b).

132 Section 3. Section 58-68-502 is amended to read:

133 **58-68-502. Unprofessional conduct.**

134 (1) "Unprofessional conduct" includes, in addition to the definition in Section
135 58-1-501:

136 (a) using or employing the services of any individual to assist a licensee in any manner
137 not in accordance with the generally recognized practices, standards, or ethics of the
138 profession, state law, or division rule;

139 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
140 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

141 (c) making a material misrepresentation regarding the qualifications for licensure under
142 Section 58-68-302.5;

143 (d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research
144 and Medical Cannabis;

145 (e) performing or inducing an abortion in violation of the requirements of Section
146 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter
147 is found guilty of a crime in connection with the violation;

148 (f) falsely making an entry in, or altering, a medical record with the intent to conceal:

149 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
150 or an individual under the direction or control of an individual licensed under this chapter; or

151 (ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1); [or]

(g) performing or causing to be performed, upon an individual who is less than 18 years old[;];

(i) a primary sex characteristic surgical procedure; or

(ii) a secondary sex characteristic surgical procedure[;]; or

(h) ~~Ĥ→ [failing to comply with Subsection 75-2a-106(3)(b)(iii) when completing an order for life sustaining treatment for the minor]~~ **designating a child as do not resuscitate without parental consent** ←Ĥ .

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device;

or

(b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26B-4-201, recommending the use of medical cannabis; or

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 4. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) in a practice that has physician assistant ownership interests, failure to allow a physician the independent final decision making authority on treatment decisions for the physician's patient;

(e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1);
[and]

(g) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis[-]; or

(h) ~~Ĥ→ [failing to comply with Subsection 75-2a-106(3)(b)(iii) when completing an order for life sustaining treatment for the minor]~~ designating a child as do not resuscitate without parental consent ←Ĥ .

(2) (a) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26B-4-201, recommending the use of medical cannabis.

(b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).

Section 5. Section 75-2a-103 is amended to read:

75-2a-103. Definitions.

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years old; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include ~~[a POLST order]~~ an order for life sustaining treatment.

(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection ~~58-31b-301~~(2)(e);

(b) an independent practitioner; and

~~[(c) acting under a consultation and referral plan with a physician; and]~~

~~[(d)]~~ (c) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(5) "Best interest" means that the benefits to the ~~[person]~~ individual resulting from a treatment outweigh the burdens to the ~~[person]~~ individual resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the ~~[person]~~ individual;

(b) the degree of physical pain or discomfort caused to the ~~[person]~~ individual by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the ~~[person]~~ individual's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the ~~[person]~~ individual by subjecting the ~~[person]~~ individual to humiliation and dependency;

- 245 (d) the effect of the treatment on the life expectancy of the [person] individual;
246 (e) the prognosis of the [person] individual for recovery with and without the
247 treatment;
- 248 (f) the risks, side effects, and benefits of the treatment, or the withholding or
249 withdrawal of treatment; and
- 250 (g) the religious beliefs and basic values of the [person] individual receiving treatment,
251 to the extent these may assist the decision maker in determining the best interest.
- 252 (6) "Capacity to appoint an agent" means that the adult understands the consequences
253 of appointing a particular [person] individual as agent.
- 254 (7) "Declarant" means an adult who has completed and signed or directed the signing
255 of an advance health care directive.
- 256 (8) "Default surrogate" means the adult who may make decisions for an individual
257 when either:
- 258 (a) an agent or guardian has not been appointed; or
259 (b) an agent is not able, available, or willing to make decisions for an adult.
- 260 (9) "Emergency medical services provider" means a person that is licensed, designated,
261 or certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.
- 262 (10) "Generally accepted health care standards":
263 (a) is defined only for the purpose of:
264 (i) this chapter and does not define the standard of care for any other purpose under
265 Utah law; and
266 (ii) enabling health care providers to interpret the statutory form set forth in Section
267 75-2a-117; and
268 (b) means the standard of care that justifies a provider in declining to provide life
269 sustaining care because the proposed life sustaining care:
270 (i) will not prevent or reduce the deterioration in the health or functional status of an
271 individual;
272 (ii) will not prevent the impending death of an individual; or
273 (iii) will impose more burden on the individual than any expected benefit to the
274 individual.
- 275 (11) "Health care" means any care, treatment, service, or procedure to improve,

maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(12) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

(13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

(14) "Health care facility" means:

(a) a health care facility as defined in Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

(15) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

(16) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an

individual comfortable.

(17) "Order for life sustaining treatment" means an order related to life sustaining treatment, on a form designated by the Department of Health and Human Services under Section 75-2a-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

[~~(17)~~] (18) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

[~~(18)~~] (19) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(19)~~] (20) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(20)~~ "POLST order" means an order, on a form designated by the Department of Health and Human Services under Section 75-2a-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.]

(21) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(22) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (22)(a) through (c) are unknown, the best interest of the adult.

(23) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75-2a-108; or

(c) a guardian.

Section 6. Section 75-2a-106 is amended to read:

75-2a-106. Emergency medical services -- Order for life sustaining treatment.

(1) ~~[A POLST order]~~ An order for life sustaining treatment may be created by or on behalf of ~~[a person]~~ an individual as described in this section.

(2) ~~[A POLST order]~~ An order for life sustaining treatment shall, in consultation with the ~~[person]~~ individual authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or~~[, subject to Subsection (11);]~~ physician assistant of the ~~[person]~~ individual to whom the ~~[POLST order]~~ order for life sustaining treatment relates; or

(b) a health care provider who:

(i) is acting under the supervision of ~~[a person]~~ an individual described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) ~~[A POLST order]~~ An order for life sustaining treatment shall be signed:

(a) personally, by the physician, APRN, or~~[, subject to Subsection (11);]~~ physician assistant of the ~~[person]~~ individual to whom the ~~[POLST order]~~ order for life sustaining treatment relates; and

(b) (i) if the ~~[person]~~ individual to whom the ~~[POLST order]~~ order for life sustaining treatment relates is an adult with health care decision making capacity, by:

(A) the ~~[person]~~ individual; or

(B) an adult who is directed by the ~~[person]~~ individual to sign the ~~[POLST-order]~~ order for life sustaining treatment on behalf of the ~~[person]~~ individual;

(ii) if the ~~[person]~~ individual to whom the ~~[POLST-order]~~ order for life sustaining treatment relates is an adult who lacks health care decision making capacity, by:

(A) the surrogate with the highest priority under Section 75-2a-111;

(B) the majority of the class of surrogates with the highest priority under Section 75-2a-111; or

(C) ~~[a person]~~ an individual directed to sign the ~~[POLST-order]~~ order for life sustaining treatment by, and on behalf of, the ~~[persons]~~ individuals described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the ~~[person]~~ individual to whom the ~~[POLST-order]~~ order for life sustaining treatment relates is a minor, by a parent or guardian of the minor.

(4) If ~~[a POLST-order]~~ an order for life sustaining treatment relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) ~~[A POLST-order]~~ An order for life sustaining treatment:

(a) shall be in writing, on a form designated by the Department of Health and Human Services;

(b) shall state the date on which the ~~[POLST-order]~~ order for life sustaining treatment was made;

(c) may specify the level of life sustaining care to be provided to the ~~[person]~~ individual to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the ~~[person]~~ individual to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with ~~[a POLST-order]~~ an order for life sustaining treatment in good faith; or

(b) providing life sustaining treatment to ~~[a person]~~ an individual when ~~[a POLST order]~~ an order for life sustaining treatment directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of ~~[a POLST order]~~ an order for life sustaining treatment described in this section conflict with the provisions of an advance health care directive made under Section 75-2a-107, the provisions of the ~~[POLST order]~~ order for life sustaining treatment take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke ~~[a POLST order]~~ an order for life sustaining treatment by:

(a) orally informing emergency service personnel;

(b) writing "void" across the ~~[POLST order]~~ order for life sustaining treatment form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the ~~[POLST order]~~ order for life sustaining treatment form; or

(ii) a bracelet or other evidence of the ~~[POLST order]~~ order for life sustaining treatment;

(d) asking another adult to take the action described in this Subsection (8) on the ~~[person]~~ individual's behalf;

(e) signing or directing another adult to sign a written revocation on the ~~[person]~~ individual's behalf;

(f) stating, in the presence of an adult witness, that the ~~[person]~~ individual wishes to revoke the order; or

(g) completing a new ~~[POLST order]~~ order for life sustaining treatment.

(9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health care decision making capacity may only revoke ~~[a POLST order]~~ an order for life sustaining treatment if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign ~~[a POLST order]~~ an order for life sustaining treatment may revoke ~~[a POLST order]~~ an order for life sustaining treatment, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the ~~[POLST order]~~ order for life sustaining treatment; or

(ii) completing and signing a new ~~[POLST order]~~ order for life sustaining treatment.

(c) A surrogate may not revoke ~~[a POLST order]~~ an order for life sustaining treatment during the period of time beginning when an emergency service provider is contacted for assistance, and ending when the emergency ends.

(10) (a) The Department of Health and Human Services shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section 75-2a-117.

(b) The Department of Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare ~~[a POLST order]~~ an order for life sustaining treatment.

(c) The Department of Health and Human Services may assist others with training of health care professionals regarding this chapter.

~~[(11) A physician assistant may not prepare or sign a POLST order, unless the physician assistant is permitted to prepare or sign the POLST order under the physician assistant's delegation of services agreement, as defined in Section 58-70a-102.]~~

~~[(12)]~~ (11) (a) Notwithstanding any other provision of this section:

(i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to any signature required on the ~~[POLST order]~~ order for life sustaining treatment; and

(ii) a verbal confirmation satisfies the requirement for a signature from an individual under Subsection (3)(b)(ii) or (iii), if:

(A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the ~~[POLST order]~~ order for life sustaining treatment in person or electronically would require significant difficulty or expense; and

(B) a licensed health care provider witnesses the verbal confirmation and signs the ~~[POLST order]~~ order for life sustaining treatment attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection ~~[(12)(a)(ii)(B)]~~ (11)(a)(ii)(B):

(i) may not be the same individual who signs the ~~[POLST order]~~ order for life sustaining treatment under Subsection (3)(a); and

(ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the

462 identity of the individual who is providing the verbal confirmation.

463 Section 7. **Effective date.**

464 This bill takes effect on May 1, 2024.