

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 490

Introduced by Watermeier, 1; Craighead, 6.

Read first time January 20, 2015

Committee:

- 1 A BILL FOR AN ACT relating to medical care; to adopt the Provider Orders
- 2 for Life-Sustaining Treatment Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as the Provider
2 Orders for Life-Sustaining Treatment Act.

3 Sec. 2. For purposes of the Provider Orders for Life-Sustaining
4 Treatment Act:

5 (1) Department means the Department of Health and Human Services;
6 and

7 (2) Medical provider means a person licensed under the Uniform
8 Credentialing Act to independently provide and order medical care and
9 treatment.

10 Sec. 3. (1) The Legislature finds that:

11 (a) Health care planning is a process rather than a single decision
12 that helps an individual to consider the kind of care he or she wants
13 over the course of his or her lifetime;

14 (b) It is important for individuals to make health care decisions
15 prior to a medical crisis; and

16 (c) Health care decisions may be made using a tool such as the
17 provider orders for life-sustaining treatment form which documents the
18 wishes of an individual in a physician order and is intended for
19 individuals with advanced illness or frailty.

20 (2) It is the intent of the Legislature that nothing in the Provider
21 Orders for Life-Sustaining Treatment Act be construed to require an
22 individual to complete a provider orders for life-sustaining treatment
23 form.

24 Sec. 4. (1) The department shall adopt and promulgate rules and
25 regulations establishing a standardized format for a provider orders for
26 life-sustaining treatment form as provided in section 5 of this act. The
27 department shall adhere to the directions, sequence, and wording in
28 section 5 of this act. The department shall, in consultation with health
29 care provider advocacy organizations, adopt and promulgate rules and
30 regulations to develop standards for training health care professionals
31 and education for the public on the use of the form.

1 (2) A provider orders for life-sustaining treatment form shall be
2 executed, implemented, reviewed, and revoked in accordance with the
3 instructions on the form.

4 Sec. 5. (1) The standardized provider orders for life-sustaining
5 treatment form shall adhere to the requirements of this section regarding
6 directions, sequence, and wording.

7 (2) Across the top of the first page of the form, the following
8 language shall appear in all capital, italicized, boldface, underscored
9 letters against a contrasting color background: "SEND FORM WITH PATIENT/
10 RESIDENT WHENEVER TRANSFERRED OR DISCHARGED".

11 (3)(a) Underneath the language required under subsection (2) of this
12 section, there shall be an introductory section divided into two blocks,
13 with the left block twice as wide as the right block. Underneath the
14 introductory block shall be sections as provided in subsections (4)
15 through (8) of this section separated by boldface lines.

16 (b) Across the top of the left block, the following boldface,
17 underscored language shall appear: "Nebraska Provider Orders for Life-
18 Sustaining Treatment". Under this heading the following unindented
19 paragraph shall appear: "This order set is for medical interventions that
20 are typically administered in "End of Life" situations based on the
21 patient's current medical condition and wishes. In an emergency
22 situation, follow these orders and then contact the medical provider. Any
23 section not completed implies full treatment for the section. Everyone
24 shall be treated with dignity and respect. Photocopies or facsimile
25 copies of this form are legal and valid." Under this paragraph shall be a
26 line of separation under which shall be the following phrase: "Medical
27 Condition and Goals for Care:" in boldface type with space for completion
28 by user. Under the space shall be a line of separation under which there
29 shall be the following sentence in boldface type: "Initials of patient/
30 substitute decisionmaker required on applicable lines."

31 (c) In the right block shall be space followed by a blank line under

1 which shall be the following language: "Last Name, First Name, Middle
2 Initial". Under that line shall be the following lines:

3 Date of Birth:

4 Last 4 digits of SSN:

5 Gender: M F

6 Effective Date:

7 Following those lines shall be space followed by a blank line under
8 which shall be the following language: "Name of Medical Provider."

9 (4)(a) Underneath the introductory section, section A of the form
10 shall be in two blocks.

11 (b) The left block shall be one-half inch wide and shall indicate
12 "Section" with a capitalized, boldface, centered letter A underneath.

13 (c) The right block shall have three lines, with the first line in
14 boldface type. The top line shall read as follows: "RESUSCITATION:
15 Patient/resident has no pulse and/or is not breathing." There shall be
16 underscoring under "or". The second line shall read as follows: "....
17 Attempt Resuscitation (CPR) Allow Natural Death (Do not Attempt
18 Resuscitation)" The third line shall read as follows: "When not in
19 cardiopulmonary arrest, follow orders in Sections B, C and D."

20 (5)(a) Underneath the material required in subsection (4) of this
21 section, section B of the form shall be in two blocks.

22 (b) The left block shall be one-half inch wide and shall indicate
23 "Section" with a capitalized, boldface, centered letter B underneath.

24 (c)(i) The right block shall have a first line in boldface type. The
25 first two words shall be underscored. The first line shall read as
26 follows: "MEDICAL INTERVENTIONS: Patient/resident has pulse and is
27 breathing." Following the first line, there shall be three choices
28 presented by a one-fourth inch line where a check or other mark may be
29 made to indicate selection of that choice.

30 (ii) After the first line to indicate a selection shall be the words
31 "Full Treatment.", in boldface type, with the following language after

1 such words and indented underneath: "Includes the use of endotracheal
2 intubation, mechanical ventilation, or defibrillation or cardioversion as
3 indicated, and all treatment listed under "Limited Interventions" and
4 "Comfort Measures". The goal is to extend life by all medically effective
5 means.".

6 (iii) After the second line to indicate a selection shall be the
7 words "Limited Additional Interventions.", in boldface type, with the
8 following language after such words and indented underneath: "Includes
9 all comfort measures as listed below, including transfer to hospital,
10 cardiac monitoring if indicated and any interventions checked in Section
11 C or D. No endotracheal intubation, mechanical ventilation,
12 defibrillation or cardioversion, or long-term life support measures will
13 be given. The goal is to extend life by basic medical interventions.".

14 (iv) After the third line to indicate a selection shall be the words
15 "Comfort Measures Only.", in boldface type, with the following language
16 after such words and indented underneath: "The patient/resident is
17 treated with dignity and respect and is kept clean, warm and dry.
18 Reasonable measures are made to offer food and fluids by mouth, and
19 attention is paid to hygiene. Medication, positioning, wound care and
20 other measures are used to relieve pain and suffering. Oxygen, suction
21 and manual treatment of airway obstruction may be used as needed for
22 comfort. These measures are to be used where the patient/resident
23 lives.".

24 (v) Indented and flush with the material required under subdivision
25 (iv) of this subdivision shall be the boldface word "Hospitalization".
26 Under this word shall be two lines as follows:

27 Hospitalize if comfort measures fail.

28 Do not hospitalize if comfort measures fail.

29 (6)(a) Underneath the material required in subsection (5) of this
30 section, section C of the form shall be in two blocks.

31 (b) The left block shall be one-half inch wide and shall indicate

1 "Section" with a capitalized, boldface, centered letter C underneath.

2 (c) The right block shall have a first line in all capital,
3 boldface, underscored letters which shall read as follows: "ARTIFICALLY
4 ADMINISTERED FLUIDS, AND NUTRITION BY FEEDING TUBE, OR NUTRITION BY IV
5 (TPN):". The next line shall be in boldface type and read as follows:
6 "Always offer liquids and food by mouth if physically possible". Under
7 this line shall be two columns with the following in the first column:

8 Long-Term Tube Feeding

9 Defined trial period of feeding tube

10 No Tube Feeding

11 The second column shall have the following:

12 Defined trial period of IV fluids or TPN

13 No IV fluids or TPN

14 (7)(a) Underneath the material required in subsection (6) of this
15 section, section D of the form shall be in two blocks.

16 (b) The left block shall be one-half inch wide and shall indicate
17 "Section" with a capitalized, boldface, centered letter D underneath.

18 (c) The right block shall have a first line in boldface type, with
19 the following language underscored: "Additional Orders and/or
20 Interventions:". The underscored language shall be followed by: "(e.g.
21 dialysis, blood products, antibiotics)". Underneath the first line shall
22 be space for completion by user.

23 (8)(a) Underneath the material required in subsection (7) of this
24 section, section E of the form shall be in three blocks.

25 (b) The left block shall be one-half inch wide and shall indicate
26 "Section" with a capitalized, boldface, centered letter E underneath.

27 (c) The middle block shall be one inch wide with the following
28 language:

29 Discussed with:

30 Patient

31 Parent of

- 1 Minor
- 2 Power of
- 3 Attorney
- 4 Court-
- 5 Appointed
- 6 Guardian
- 7 Spouse
- 8 Other:
- 9
- 10

11 (d) The right block shall have the following language across the
12 top: ".... I agree to have my Power of Attorney/Guardian make changes in
13 this document in accordance to my advance directives and preferences
14 after consultation with a medical provider." Underneath this statement
15 shall be an unindented paragraph, with the first word in boldface type,
16 as follows: "Signatures: The signatures below verify that these orders
17 are consistent with the patient's medical condition, known preferences
18 and best understood information. If signed by a Guardian or an individual
19 designated pursuant to a Power of Attorney for Health Care, the patient
20 must be decisionally incapable and in accordance with the person's
21 advance directive." Underneath this paragraph shall be lines and space
22 for signatures in two columns. The first column shall contain a line for
23 a signature with the following language underneath: "Patient/Guardian/
24 POA" and a second line for a signature with the following language
25 underneath: "Witness". The second column shall contain a line for a
26 signature with the following language underneath: "Signature of Person
27 Preparing Form/Witness", a second line for a printed name and date with
28 the following language underneath: "Preparer Name (print) Date", and a
29 third line for a signature with the following language underneath:
30 "Provider Signature".

31 (9) Across the top of the second page of the form, the following

1 language shall appear in all capital, italicized, boldface, underscored
2 letters against a contrasting color background: "SEND FORM WITH PATIENT/
3 RESIDENT WHENEVER TRANSFERRED OR DISCHARGED".

4 (10)(a) Underneath the language required under subsection (9) of
5 this section, there shall be an introductory section divided into two
6 blocks, with the left block twice as wide as the right block.

7 (b) Across the top of the left block, the following boldface
8 language shall appear: "Nebraska Provider Orders for Life-Sustaining
9 Treatment". Under this heading the following unindented paragraph shall
10 appear: "The POLST form is always voluntary and is intended for
11 individuals with advanced illness or frailty. This document goes into
12 effect when the individual is facing "End of Life" situations and is not
13 able to communicate their medical treatment preference."

14 (c) In the right block shall be space followed by a blank line under
15 which shall be the following language: "Last Name, First Name, Middle
16 Initial". Under that line shall be the following lines:

17 Date of Birth:

18 Last 4 digits of SSN:

19 (11)(a) Underneath the material required in subsection (10) of this
20 section shall be a block for directions.

21 (b) The first line shall be centered and shall read as follows:
22 "Directions for Completing POLST Form". Underneath this heading shall be
23 two bullet points. The first bullet point shall be followed by the
24 following language: "The POLST form must be completed by a health care
25 provider based on the patient's preferences and medical condition after
26 determining that the patient/substitute decisionmaker fully understands
27 the burdens and benefits of the medical treatments." The second bullet
28 point shall be followed by the following language: "The POLST form must
29 be signed by a medical provider and patient or their Power of Attorney/
30 Guardian to be valid.

31 (c)(i) Underneath the material required in subdivision (b) of this

1 subsection, the next line shall be centered and read as follows: "Using
2 the POLST Form". Underneath this heading shall be five bullet points.

3 (ii) The first bullet point shall be followed by the following
4 language: "Any incomplete section of POLST implies full treatment for the
5 section."

6 (iii) The second bullet point shall be followed by the following
7 language: "The POLST is valid in all care settings, including hospitals,
8 in the State of Nebraska."

9 (iv) The third bullet point shall be followed by the following
10 language: "The POLST is a set of medical orders when signed by the
11 medical provider. The most recent POLST replaces all previous orders."

12 (v) The fourth bullet point shall be followed by the following
13 language: "POLST does not replace a need for an Advance Directive. An
14 Advance Directive is encouraged for all competent adults regardless of
15 their health status. An Advance Directive allows a person to document in
16 detail his/her future health care instructions and/or names an individual
17 to act on their behalf if they become incapable. When available, all
18 Advance Directive documents should be reviewed to ensure consistency, and
19 the forms updated appropriately to resolve any conflicts."

20 (vi) The fifth bullet point shall be followed by the following
21 language: "Oral fluids and nutrition must always be offered if medically
22 feasible."

23 (d)(i) Underneath the material required in subdivision (c) of this
24 subsection, the next line shall be centered and read as follows:
25 "Reviewing the POLST Form". Underneath this heading shall be the
26 following language: "This POLST form should be reviewed periodically
27 whenever:". This shall be followed by three numbered statements.

28 (ii) The first numbered statement shall read as follows: "1. The
29 person is transferred from one care setting or level to another;".

30 (iii) The second numbered statement shall read as follows: "2. There
31 is a substantial change in the person's health status; or".

1 (iv) The third numbered statement shall read as follows: "3. The
2 person's treatment preference changes.".

3 (e) Underneath the material required in subdivision (d) of this
4 subsection, the following statements shall be centered in boldface type:
5 "To VOID this form, draw a line through "Provider Orders" (Sections A
6 through D on page 1) and write "VOID" in large letters. Any changes
7 require a new POLST form. Attached VOIDED form to new one.".

8 (12)(a) Underneath the direction block required in subsection (11)
9 of this section shall be a block for review of the form. The top line of
10 the block shall be in boldface type and read as follows: "Review of this
11 Form".

12 (b) Underneath the top line shall be a table with six columns and
13 four rows. The top row shall contain headings as follows:

- 14 (i) Date;
- 15 (ii) Reason for Review;
- 16 (iii) Patient or SDM Initials;
- 17 (iv) Reviewer;
- 18 (v) Location of Review; and
- 19 (vi) Outcome of Review.

20 (c) The first five columns of the remaining three rows shall be
21 blank. The sixth column of each of the remaining three rows shall contain
22 three boxes in vertical alignment within the column. Following the first
23 box shall be the words "No change". Following the second box shall be the
24 words "FORM VOIDED, new form completed". Following the third box shall be
25 the words "FORM VOIDED, no new form" and the word "no" shall be boldface
26 and italicized.

27 Sec. 6. No liability shall arise on the part of a medical provider
28 based on an act or omission related to signing or refusing or failing to
29 sign a provider orders for life-sustaining treatment form as provided in
30 the Provider Orders for Life-Sustaining Treatment Act.