

Effective 5/3/2023

Effective until 5/1/2024

75-2a-106 Emergency medical services -- POLST order.

- (1) A POLST order may be created by or on behalf of a person as described in this section.
- (2) A POLST order shall, in consultation with the person 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 to whom the POLST order relates; or
 - (b) a health care provider who:
 - (i) is acting under the supervision of a person 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 shall be signed:
 - (a) personally, by the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the POLST order relates; and
 - (b)
 - (i) if the person to whom the POLST order relates is an adult with health care decision making capacity, by:
 - (A) the person; or
 - (B) an adult who is directed by the person to sign the POLST order on behalf of the person;
 - (ii) if the person to whom the POLST order 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 directed to sign the POLST order by, and on behalf of, the persons described in Subsection (3)(b)(ii)(A) or (B); or
 - (iii) if the person to whom the POLST order relates is a minor, by a parent or guardian of the minor.
- (4) If a POLST order relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining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:
 - (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 was made;
 - (c) may specify the level of life sustaining care to be provided to the person to whom the order relates; and
 - (d) may direct that life sustaining care be withheld or withdrawn from the person 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 in good faith; or

- (b) providing life sustaining treatment to a person when a POLST order directs that the life sustaining treatment be withheld or withdrawn.
- (7) To the extent that the provisions of a POLST order 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 take precedence.
- (8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:
 - (a) orally informing emergency service personnel;
 - (b) writing "void" across the POLST order form;
 - (c) burning, tearing, or otherwise destroying or defacing:
 - (i) the POLST order form; or
 - (ii) a bracelet or other evidence of the POLST order;
 - (d) asking another adult to take the action described in this Subsection (8) on the person's behalf;
 - (e) signing or directing another adult to sign a written revocation on the person's behalf;
 - (f) stating, in the presence of an adult witness, that the person wishes to revoke the order; or
 - (g) completing a new POLST order.
- (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 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 may revoke a POLST order, in accordance with Subsection (9)(a), by:
 - (i) signing a written revocation of the POLST order; or
 - (ii) completing and signing a new POLST order.
 - (c) A surrogate may not revoke a POLST order 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.
 - (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)
 - (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; 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 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 attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection (12)(a)(ii)(B):

- (i) may not be the same individual who signs the POLST order under Subsection (3)(a); and
- (ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the identity of the individual who is providing the verbal confirmation.