

Senator Jani Iwamoto proposes the following substitute bill:

**LIFE WITH DIGNITY ORDER AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jani Iwamoto**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to life with dignity orders.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Health to designate a uniform life with dignity order that is developed by a nationally recognized entity;
- ▶ applies the provisions of the Uniform Electronic Transactions Act to signatures that are required on a life with dignity order; and
- ▶ allows a verbal confirmation to satisfy the requirement for a signature on a life with dignity form under limited circumstances.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**75-2a-106**, as last amended by Laws of Utah 2009, Chapter 99

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

27 Section 1. Section **75-2a-106** is amended to read:

28 **75-2a-106. Emergency medical services -- Life with dignity order.**

29 (1) A life with dignity order may be created by or on behalf of a person as described in  
30 this section.

31 (2) A life with dignity order shall, in consultation with the person authorized to consent  
32 to the order pursuant to this section, be prepared by:

33 (a) the physician, APRN, or, subject to Subsection (11), physician assistant of the  
34 person to whom the life with dignity order relates; or

35 (b) a health care provider who:

36 (i) is acting under the supervision of a person described in Subsection (2)(a); and

37 (ii) is:

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

39 (B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician

40 Assistant Act;

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

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

44 (3) A life with dignity order shall be signed:

45 (a) personally, by the physician, APRN, or, subject to Subsection (11), physician  
46 assistant of the person to whom the life with dignity order relates; and

47 (b) (i) if the person to whom the life with dignity order relates is an adult with health  
48 care decision making capacity, by:

49 (A) the person; or

50 (B) an adult who is directed by the person to sign the life with dignity order on behalf  
51 of the person;

52 (ii) if the person to whom the life with dignity order relates is an adult who lacks health  
53 care decision making capacity, by:

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

55 (B) the majority of the class of surrogates with the highest priority under Section

56 [75-2a-111](#); or

57 (C) a person directed to sign the order by, and on behalf of, the persons described in  
58 Subsection (3)(b)(ii)(A) or (B); or

59 (iii) if the person to whom the life with dignity order relates is a minor, by a parent or  
60 guardian of the minor.

61 (4) If a life with dignity order relates to a minor and directs that life sustaining  
62 treatment be withheld or withdrawn from the minor, the order shall include a certification by  
63 two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining  
64 treatment is in the best interest of the minor.

65 (5) A life with dignity order:

66 (a) shall be in writing[;]:

67 (i) on a form [~~approved~~] designated by the Department of Health; or

68 (ii) on a physical or electronic uniform life with dignity order form that is developed by  
69 a nationally recognized entity and designated by the Department of Health;

70 (b) shall state the date on which the order was made;

71 (c) may specify the level of life sustaining care to be provided to the person to whom  
72 the order relates; and

73 (d) may direct that life sustaining care be withheld or withdrawn from the person to  
74 whom the order relates.

75 (6) A health care provider or emergency medical service provider, licensed or certified  
76 under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, is immune from  
77 civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

78 (a) complying with a life with dignity order in good faith; or

79 (b) providing life sustaining treatment to a person when a life with dignity order directs  
80 that the life sustaining treatment be withheld or withdrawn.

81 (7) To the extent that the provisions of a life with dignity order described in this  
82 section conflict with the provisions of an advance health care directive made under Section  
83 [75-2a-107](#), the provisions of the life with dignity order take precedence.

84 (8) An adult, or a parent or guardian of a minor, may revoke a life with dignity order  
85 by:

86 (a) orally informing emergency service personnel;

87 (b) writing "void" across the form;

- 88 (c) burning, tearing, or otherwise destroying or defacing:  
89 (i) the form; or  
90 (ii) a bracelet or other evidence of the life with dignity order;  
91 (d) asking another adult to take the action described in this Subsection (8) on the  
92 person's behalf;  
93 (e) signing or directing another adult to sign a written revocation on the person's  
94 behalf;  
95 (f) stating, in the presence of an adult witness, that the person wishes to revoke the  
96 order; or  
97 (g) completing a new life with dignity order.  
98 (9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks  
99 health care decision making capacity may only revoke a life with dignity order if the revocation  
100 is consistent with the substituted judgment standard.  
101 (b) Except as provided in Subsection (9)(c), a surrogate who has authority under this  
102 section to sign a life with dignity order may revoke a life with dignity order, in accordance with  
103 Subsection (9)(a), by:  
104 (i) signing a written revocation of the life with dignity order; or  
105 (ii) completing and signing a new life with dignity order.  
106 (c) A surrogate may not revoke a life with dignity order during the period of time  
107 beginning when an emergency service provider is contacted for assistance, and ending when  
108 the emergency ends.  
109 (10) (a) The Department of Health shall [~~adopt~~] make rules, in accordance with Title  
110 63G, Chapter 3, Utah Administrative Rulemaking Act, to:  
111 (i) create the forms and systems described in Subsection (5)(a)(i) in accordance with  
112 the provisions of this section; [~~and~~]  
113 (ii) designate a life with dignity order form as described in Subsection (5)(a)(ii); and  
114 [~~(i)~~] (iii) develop uniform instructions for the form established in Section 75-2a-117.  
115 (b) The Department of Health may [~~adopt~~] make rules, in accordance with Title 63G,  
116 Chapter 3, Utah Administrative Rulemaking Act, to designate health care professionals, in  
117 addition to those described in Subsection (2)(b)(ii), who may prepare a life with dignity order.  
118 (c) The Department of Health may assist others with training of health care

119 professionals regarding this chapter.

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

123 (12) (a) Notwithstanding any other provision of this section:

124 (i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to  
125 any signature required on the life with dignity order; and

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

128 (A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the  
129 life with dignity order in person or electronically would require significant difficulty or  
130 expense; and

131 (B) a licensed health care provider witnesses the verbal confirmation and signs the life  
132 with dignity order attesting that the health care provider witnessed the verbal confirmation.

133 (b) The health care provider described in Subsection (12)(a)(ii)(B) may not be the same  
134 individual who signs the life with dignity order under Subsection (3)(a).