

1 **ORDER FOR LIFE SUSTAINING TREATMENT AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Michael S. Kennedy

3 **LONG TITLE**

4 **General Description:**

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

6 **Highlighted Provisions:**

7 This bill:

- 8 ▸ modifies professional conduct standards for physicians, advance practice registered
- 9 nurses, and physician assistants related to do not resuscitate orders; and
- 10 ▸ makes technical and conforming changes related to orders for life sustaining treatment.

11 **Money Appropriated in this Bill:**

12 None

13 **Other Special Clauses:**

14 None

15 **Utah Code Sections Affected:**

16 AMENDS:

17 **58-31b-502**, as last amended by Laws of Utah 2023, Chapters 223, 301 and 329

18 **58-67-502**, as last amended by Laws of Utah 2023, Chapters 2, 301, 317, and 329

19 **58-68-502**, as last amended by Laws of Utah 2023, Chapters 2, 301, 317, and 329

20 **58-70a-503**, as last amended by Laws of Utah 2023, Chapter 329

21 **75-2a-103**, as last amended by Laws of Utah 2023, Chapters 139, 330

22 **75-2a-106**, as last amended by Laws of Utah 2023, Chapter 330

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

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

26 **58-31b-502 . Unprofessional conduct.**

27 (1) "Unprofessional conduct" includes:

- 28 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,

- 29 diagnosis, personal effects, or any other matter about which the licensee is privileged
30 to know because of the licensee's or person with a certification's position or practice
31 as a nurse or practice as a medication aide certified;
- 32 (b) failure to provide nursing service or service as a medication aide certified in a
33 manner that demonstrates respect for the patient's human dignity and unique personal
34 character and needs without regard to the patient's race, religion, ethnic background,
35 socioeconomic status, age, sex, or the nature of the patient's health problem;
- 36 (c) engaging in sexual relations with a patient during any:
- 37 (i) period when a generally recognized professional relationship exists between the
38 person licensed or certified under this chapter and the patient; or
- 39 (ii) extended period when a patient has reasonable cause to believe a professional
40 relationship exists between the person licensed or certified under the provisions of
41 this chapter and the patient;
- 42 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
43 information about a patient or exploiting the licensee's or the person with a
44 certification's professional relationship between the licensee or holder of a
45 certification under this chapter and the patient; or
- 46 (ii) exploiting the patient by use of the licensee's or person with a certification's
47 knowledge of the patient obtained while acting as a nurse or a medication aide
48 certified;
- 49 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
- 50 (f) unauthorized taking or personal use of nursing supplies from an employer;
- 51 (g) unauthorized taking or personal use of a patient's personal property;
- 52 (h) unlawful or inappropriate delegation of nursing care;
- 53 (i) failure to exercise appropriate supervision of persons providing patient care services
54 under supervision of the licensed nurse;
- 55 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
56 person to practice as a nurse;
- 57 (k) failure to file or record any medical report as required by law, impeding or
58 obstructing the filing or recording of such a report, or inducing another to fail to file
59 or record such a report;
- 60 (l) breach of a statutory, common law, regulatory, or ethical requirement of
61 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 62 (m) failure to pay a penalty imposed by the division;

- 63 (n) violating Section 58-31b-801;
- 64 (o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8,
65 Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic
66 Pharmacy, if applicable;
- 67 (p) performing or inducing an abortion in violation of the requirements of Section
68 76-7-302 or Section 76-7a-201, regardless of whether the person licensed or certified
69 under the provisions of this chapter is found guilty of a crime in connection with the
70 violation;
- 71 (q) falsely making an entry in, or altering, a medical record with the intent to conceal:
72 (i) a wrongful or negligent act or omission of an individual licensed under this
73 chapter or an individual under the direction or control of an individual licensed
74 under this chapter; or
75 (ii) conduct described in Subsections (1)(a) through (n) or Subsection 58-1-501(1); [~~or~~]
- 76 (r) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and
77 Medical Cannabis[~~-~~] ; or
- 78 (s) for an advance practice registered nurse, designating a child as do not resuscitate
79 without parental consent.
- 80 (2) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4,
81 Part 2, Cannabinoid Research and Medical Cannabis, when registered as a qualified
82 medical provider, or acting as a limited medical provider, as those terms are defined in
83 Section 26B-4-201, recommending the use of medical cannabis.
- 84 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
85 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall
86 define unprofessional conduct for an advanced practice registered nurse described in
87 Subsection (2).
- 88 Section 2. Section **58-67-502** is amended to read:
89 **58-67-502 . Unprofessional conduct.**
- 90 (1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:
91 (a) using or employing the services of any individual to assist a licensee in any manner
92 not in accordance with the generally recognized practices, standards, or ethics of the
93 profession, state law, or division rule;
- 94 (b) making a material misrepresentation regarding the qualifications for licensure under
95 Section 58-67-302.7 or 58-67-302.8;
- 96 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical

- 97 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;
- 98 (d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and
99 Medical Cannabis;
- 100 (e) performing or inducing an abortion in violation of the requirements of Section
101 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under
102 this chapter is found guilty of a crime in connection with the violation;
- 103 (f) falsely making an entry in, or altering, a medical record with the intent to conceal:
- 104 (i) a wrongful or negligent act or omission of an individual licensed under this
105 chapter or an individual under the direction or control of an individual licensed
106 under this chapter; or
- 107 (ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1)[-]; [
108 ~~or~~]
- 109 (g) performing, or causing to be performed, upon an individual who is less than 18 years
110 old:
- 111 (i) a primary sex characteristic surgical procedure; or
- 112 (ii) a secondary sex characteristic surgical procedure[-]; or
- 113 (h) designating a child as do not resuscitate without parental consent.
- 114 (2) "Unprofessional conduct" does not include:
- 115 (a) in compliance with Section 58-85-103:
- 116 (i) obtaining an investigational drug or investigational device;
- 117 (ii) administering the investigational drug to an eligible patient; or
- 118 (iii) treating an eligible patient with the investigational drug or investigational device;
119 or
- 120 (b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
121 Cannabis:
- 122 (i) when registered as a qualified medical provider or acting as a limited medical
123 provider, as those terms are defined in Section 26B-4-201, recommending the use
124 of medical cannabis; or
- 125 (ii) when registered as a pharmacy medical provider, as that term is defined in
126 Section 26B-4-201, providing pharmacy medical provider services in a medical
127 cannabis pharmacy[-].
- 128 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in
129 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall
130 define unprofessional conduct for a physician described in Subsection (2)(b).

- 131 Section 3. Section **58-68-502** is amended to read:
- 132 **58-68-502 . Unprofessional conduct.**
- 133 (1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:
- 134 (a) using or employing the services of any individual to assist a licensee in any manner
- 135 not in accordance with the generally recognized practices, standards, or ethics of the
- 136 profession, state law, or division rule;
- 137 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
- 138 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;
- 139 (c) making a material misrepresentation regarding the qualifications for licensure under
- 140 Section 58-68-302.5;
- 141 (d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and
- 142 Medical Cannabis;
- 143 (e) performing or inducing an abortion in violation of the requirements of Section
- 144 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under
- 145 this chapter is found guilty of a crime in connection with the violation;
- 146 (f) falsely making an entry in, or altering, a medical record with the intent to conceal:
- 147 (i) a wrongful or negligent act or omission of an individual licensed under this
- 148 chapter or an individual under the direction or control of an individual licensed
- 149 under this chapter; or
- 150 (ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1); [~~or~~]
- 151 (g) performing or causing to be performed, upon an individual who is less than 18 years
- 152 old[;] :
- 153 (i) a primary sex characteristic surgical procedure; or
- 154 (ii) a secondary sex characteristic surgical procedure[;] ;or
- 155 (h) designating a child as do not resuscitate without parental consent.
- 156 (2) "Unprofessional conduct" does not include:
- 157 (a) in compliance with Section 58-85-103:
- 158 (i) obtaining an investigational drug or investigational device;
- 159 (ii) administering the investigational drug to an eligible patient; or
- 160 (iii) treating an eligible patient with the investigational drug or investigational device;
- 161 or
- 162 (b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical
- 163 Cannabis:
- 164 (i) when registered as a qualified medical provider or acting as a limited medical

165 provider, as those terms are defined in Section 26B-4-201, recommending the use
 166 of medical cannabis; or

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

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

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

174 **58-70a-503 . Unprofessional conduct.**

175 (1) "Unprofessional conduct" includes:

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

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

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

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

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

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

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

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

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

- 199 (h) designating a child as do not resuscitate without parental consent.
- 200 (2) (a) "Unprofessional conduct" does not include, in accordance with Title 26B,
 201 Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when registered as a
 202 qualified medical provider or acting as a limited medical provider, as those terms are
 203 defined in Section 26B-4-201, recommending the use of medical cannabis.
- 204 (b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in
 205 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall
 206 define unprofessional conduct for a physician assistant described in Subsection (2)(a).
- 207 Section 5. Section **75-2a-103** is amended to read:
- 208 **75-2a-103 . Definitions.**
- 209 As used in this chapter:
- 210 (1) "Adult" means an individual who is:
- 211 (a) at least 18 years old; or
- 212 (b) an emancipated minor.
- 213 (2) "Advance health care directive":
- 214 (a) includes:
- 215 (i) a designation of an agent to make health care decisions for an adult when the adult
 216 cannot make or communicate health care decisions; or
- 217 (ii) an expression of preferences about health care decisions;
- 218 (b) may take one of the following forms:
- 219 (i) a written document, voluntarily executed by an adult in accordance with the
 220 requirements of this chapter; or
- 221 (ii) a witnessed oral statement, made in accordance with the requirements of this
 222 chapter; and
- 223 (c) does not include [~~a POLST order~~] an order for life sustaining treatment.
- 224 (3) "Agent" means an adult designated in an advance health care directive to make health
 225 care decisions for the declarant.
- 226 (4) "APRN" means an individual who is:
- 227 (a) certified or licensed as an advance practice registered nurse under Subsection
 228 58-31b-301(2)(e);
- 229 (b) an independent practitioner; and
- 230 [~~(e) acting under a consultation and referral plan with a physician; and~~]
- 231 [~~(d)~~] (c) acting within the scope of practice for that individual, as provided by law, rule,
 232 and specialized certification and training in that individual's area of practice.

- 233 (5) "Best interest" means that the benefits to the [person] individual resulting from a
234 treatment outweigh the burdens to the [person] individual resulting from the treatment,
235 taking into account:
- 236 (a) the effect of the treatment on the physical, emotional, and cognitive functions of the [
237 person] individual;
- 238 (b) the degree of physical pain or discomfort caused to the [person] individual by the
239 treatment or the withholding or withdrawal of treatment;
- 240 (c) the degree to which the [person] individual's medical condition, the treatment, or the
241 withholding or withdrawal of treatment, result in a severe and continuing impairment
242 of the dignity of the [person] individual by subjecting the [person] individual to
243 humiliation and dependency;
- 244 (d) the effect of the treatment on the life expectancy of the [person] individual;
- 245 (e) the prognosis of the [person] individual for recovery with and without the treatment;
- 246 (f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal
247 of treatment; and
- 248 (g) the religious beliefs and basic values of the [person] individual receiving treatment, to
249 the extent these may assist the decision maker in determining the best interest.
- 250 (6) "Capacity to appoint an agent" means that the adult understands the consequences of
251 appointing a particular [person] individual as agent.
- 252 (7) "Declarant" means an adult who has completed and signed or directed the signing of an
253 advance health care directive.
- 254 (8) "Default surrogate" means the adult who may make decisions for an individual when
255 either:
- 256 (a) an agent or guardian has not been appointed; or
257 (b) an agent is not able, available, or willing to make decisions for an adult.
- 258 (9) "Emergency medical services provider" means a person that is licensed, designated, or
259 certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.
- 260 (10) "Generally accepted health care standards":
- 261 (a) is defined only for the purpose of:
- 262 (i) this chapter and does not define the standard of care for any other purpose under
263 Utah law; and
- 264 (ii) enabling health care providers to interpret the statutory form set forth in Section
265 75-2a-117; and
- 266 (b) means the standard of care that justifies a provider in declining to provide life

- 267 sustaining care because the proposed life sustaining care:
- 268 (i) will not prevent or reduce the deterioration in the health or functional status of an
269 individual;
- 270 (ii) will not prevent the impending death of an individual; or
- 271 (iii) will impose more burden on the individual than any expected benefit to the
272 individual.
- 273 (11) "Health care" means any care, treatment, service, or procedure to improve, maintain,
274 diagnose, or otherwise affect an individual's physical or mental condition.
- 275 (12) "Health care decision":
- 276 (a) means a decision about an adult's health care made by, or on behalf of, an adult, that
277 is communicated to a health care provider;
- 278 (b) includes:
- 279 (i) selection and discharge of a health care provider and a health care facility;
- 280 (ii) approval or disapproval of diagnostic tests, procedures, programs of medication,
281 and orders not to resuscitate; and
- 282 (iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and
283 all other forms of health care; and
- 284 (c) does not include decisions about an adult's financial affairs or social interactions
285 other than as indirectly affected by the health care decision.
- 286 (13) "Health care decision making capacity" means an adult's ability to make an informed
287 decision about receiving or refusing health care, including:
- 288 (a) the ability to understand the nature, extent, or probable consequences of health status
289 and health care alternatives;
- 290 (b) the ability to make a rational evaluation of the burdens, risks, benefits, and
291 alternatives of accepting or rejecting health care; and
- 292 (c) the ability to communicate a decision.
- 293 (14) "Health care facility" means:
- 294 (a) a health care facility as defined in Title 26B, Chapter 2, Part 2, Health Care Facility
295 Licensing and Inspection; and
- 296 (b) private offices of physicians, dentists, and other health care providers licensed to
297 provide health care under Title 58, Occupations and Professions.
- 298 (15) "Health care provider" means the same as that term is defined in Section 78B-3-403,
299 except that "health care provider" does not include an emergency medical services
300 provider.

- 301 (16) (a) "Life sustaining care" means any medical intervention, including procedures,
302 administration of medication, or use of a medical device, that maintains life by
303 sustaining, restoring, or supplanting a vital function.
- 304 (b) "Life sustaining care" does not include care provided for the purpose of keeping an
305 individual comfortable.
- 306 (17) "Order for life sustaining treatment" means an order related to life sustaining
307 treatment, on a form designated by the Department of Health and Human Services under
308 Section 75-2a-106, that gives direction to health care providers, health care facilities,
309 and emergency medical services providers regarding the specific health care decisions of
310 the individual to whom the order relates.
- 311 [(17)] (18) "Minor" means an individual who:
- 312 (a) is under 18 years old; and
313 (b) is not an emancipated minor.
- 314 [(18)] (19) "Physician" means a physician and surgeon or osteopathic surgeon licensed
315 under Title 58, Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic
316 Medical Practice Act.
- 317 [(19)] (20) "Physician assistant" means an individual licensed as a physician assistant under
318 Title 58, Chapter 70a, Utah Physician Assistant Act.
- 319 [~~(20) "POLST order" means an order, on a form designated by the Department of Health~~
320 ~~and Human Services under Section 75-2a-106, that gives direction to health care~~
321 ~~providers, health care facilities, and emergency medical services providers regarding the~~
322 ~~specific health care decisions of the individual to whom the order relates.]~~
- 323 (21) "Reasonably available" means:
- 324 (a) readily able to be contacted without undue effort; and
325 (b) willing and able to act in a timely manner considering the urgency of the
326 circumstances.
- 327 (22) "Substituted judgment" means the standard to be applied by a surrogate when making a
328 health care decision for an adult who previously had the capacity to make health care
329 decisions, which requires the surrogate to consider:
- 330 (a) specific preferences expressed by the adult:
- 331 (i) when the adult had the capacity to make health care decisions; and
332 (ii) at the time the decision is being made;
- 333 (b) the surrogate's understanding of the adult's health care preferences;
334 (c) the surrogate's understanding of what the adult would have wanted under the

335 circumstances; and
336 (d) to the extent that the preferences described in Subsections (22)(a) through (c) are
337 unknown, the best interest of the adult.

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

- 339 (a) an appointed agent;
- 340 (b) a default surrogate under the provisions of Section 75-2a-108; or
- 341 (c) a guardian.

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

343 **75-2a-106 . Emergency medical services -- Order for life sustaining treatment.**

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

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

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

352 (b) a health care provider who:

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

355 (ii) is:

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

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

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

361 (D) another health care provider, designated by rule as described in Subsection
362 (10).

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

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

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

- 369 (A) the ~~[person]~~ individual; or
- 370 (B) an adult who is directed by the ~~[person]~~ individual to sign the ~~[POLST order]~~
- 371 order for life sustaining treatment on behalf of the ~~[person]~~ individual;
- 372 (ii) if the ~~[person]~~ individual to whom the ~~[POLST order]~~ order for life sustaining
- 373 treatment relates is an adult who lacks health care decision making capacity, by:
- 374 (A) the surrogate with the highest priority under Section 75-2a-111;
- 375 (B) the majority of the class of surrogates with the highest priority under Section
- 376 75-2a-111; or
- 377 (C) ~~[a person]~~ an individual directed to sign the ~~[POLST order]~~ order for life
- 378 sustaining treatment by, and on behalf of, the ~~[persons]~~ individuals described in
- 379 Subsection (3)(b)(ii)(A) or (B); or
- 380 (iii) if the ~~[person]~~ individual to whom the ~~[POLST order]~~ order for life sustaining
- 381 treatment relates is a minor, by a parent or guardian of the minor.
- 382 (4) If ~~[a POLST order]~~ an order for life sustaining treatment relates to a minor and directs
- 383 that life sustaining treatment be withheld or withdrawn from the minor, the order shall
- 384 include a certification by two physicians that, in their clinical judgment, an order to
- 385 withhold or withdraw life sustaining treatment is in the best interest of the minor.
- 386 (5) ~~[A POLST order]~~ An order for life sustaining treatment:
- 387 (a) shall be in writing, on a form designated by the Department of Health and Human
- 388 Services;
- 389 (b) shall state the date on which the ~~[POLST order]~~ order for life sustaining treatment
- 390 was made;
- 391 (c) may specify the level of life sustaining care to be provided to the ~~[person]~~ individual
- 392 to whom the order relates; and
- 393 (d) may direct that life sustaining care be withheld or withdrawn from the ~~[person]~~
- 394 individual to whom the order relates.
- 395 (6) A health care provider or emergency medical service provider, licensed or certified
- 396 under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is
- 397 immune from civil or criminal liability, and is not subject to discipline for
- 398 unprofessional conduct, for:
- 399 (a) complying with ~~[a POLST order]~~ an order for life sustaining treatment in good faith;
- 400 or
- 401 (b) providing life sustaining treatment to ~~[a person]~~ an individual when ~~[a POLST order]~~
- 402 an order for life sustaining treatment directs that the life sustaining treatment be

- 403 withheld or withdrawn.
- 404 (7) To the extent that the provisions of [~~a-POLST order~~] an order for life sustaining treatment
405 described in this section conflict with the provisions of an advance health care directive
406 made under Section 75-2a-107, the provisions of the [~~POLST order~~] order for life
407 sustaining treatment take precedence.
- 408 (8) An adult, or a parent or guardian of a minor, may revoke [~~a-POLST order~~] an order for
409 life sustaining treatment by:
- 410 (a) orally informing emergency service personnel;
- 411 (b) writing "void" across the [~~POLST order~~] order for life sustaining treatment form;
- 412 (c) burning, tearing, or otherwise destroying or defacing:
- 413 (i) the [~~POLST order~~] order for life sustaining treatment form; or
- 414 (ii) a bracelet or other evidence of the [~~POLST order~~] order for life sustaining
415 treatment;
- 416 (d) asking another adult to take the action described in this Subsection (8) on the [~~person~~]
417 individual's behalf;
- 418 (e) signing or directing another adult to sign a written revocation on the [~~person~~]
419 individual's behalf;
- 420 (f) stating, in the presence of an adult witness, that the [~~person~~] individual wishes to
421 revoke the order; or
- 422 (g) completing a new [~~POLST order~~] order for life sustaining treatment.
- 423 (9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health
424 care decision making capacity may only revoke [~~a-POLST order~~] an order for life
425 sustaining treatment if the revocation is consistent with the substituted judgment
426 standard.
- 427 (b) Except as provided in Subsection (9)(c), a surrogate who has authority under this
428 section to sign [~~a-POLST order~~] an order for life sustaining treatment may revoke [~~a~~
429 ~~POLST order~~] an order for life sustaining treatment, in accordance with Subsection
430 (9)(a), by:
- 431 (i) signing a written revocation of the [~~POLST order~~] order for life sustaining
432 treatment; or
- 433 (ii) completing and signing a new [~~POLST order~~] order for life sustaining treatment.
- 434 (c) A surrogate may not revoke [~~a-POLST order~~] an order for life sustaining treatment
435 during the period of time beginning when an emergency service provider is contacted
436 for assistance, and ending when the emergency ends.

- 437 (10) (a) The Department of Health and Human Services shall make rules, in accordance
 438 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
- 439 (i) create the forms and systems described in this section; and
 440 (ii) develop uniform instructions for the form established in Section 75-2a-117.
- 441 (b) The Department of Health and Human Services may make rules, in accordance with
 442 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care
 443 professionals, in addition to those described in Subsection (2)(b)(ii), who may
 444 prepare [~~a POLST order~~] an order for life sustaining treatment.
- 445 (c) The Department of Health and Human Services may assist others with training of
 446 health care professionals regarding this chapter.
- 447 [~~(11) A physician assistant may not prepare or sign a POLST order, unless the physician~~
 448 ~~assistant is permitted to prepare or sign the POLST order under the physician assistant's~~
 449 ~~delegation of services agreement, as defined in Section 58-70a-102.]~~
- 450 [(12)] (11) (a) Notwithstanding any other provision of this section:
- 451 (i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply
 452 to any signature required on the [~~POLST order~~] order for life sustaining treatment;
 453 and
- 454 (ii) a verbal confirmation satisfies the requirement for a signature from an individual
 455 under Subsection (3)(b)(ii) or (iii), if:
- 456 (A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to
 457 sign the [~~POLST order~~] order for life sustaining treatment in person or
 458 electronically would require significant difficulty or expense; and
- 459 (B) a licensed health care provider witnesses the verbal confirmation and signs the [~~]~~
 460 ~~POLST order~~] order for life sustaining treatment attesting that the health care
 461 provider witnessed the verbal confirmation.
- 462 (b) The health care provider described in Subsection [(12)(a)(ii)(B)] (11)(a)(ii)(B):
- 463 (i) may not be the same individual who signs the [~~POLST order~~] order for life
 464 sustaining treatment under Subsection (3)(a); and
- 465 (ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the
 466 identity of the individual who is providing the verbal confirmation.

467 Section 7. **Effective date.**

468 This bill takes effect on May 1, 2024.