482400

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

The Committee on Health Policy (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete line 205
and insert:
Section 1. Paragraph (l) of subsection (3) of section 395.1041, Florida Statutes, is amended to read:
395.1041 Access to emergency services and care.—
(3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF FACILITY OR HEALTH CARE PERSONNEL.—
(l) Hospital personnel may withhold or withdraw

482400

cardiopulmonary resuscitation if presented with an order not to resuscitate executed pursuant to s. 401.45 or a Physician Order for Life Sustaining Treatment (POLST). Facility staff and facilities shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation pursuant to either ~~such an~~ order. The absence of an order not to resuscitate executed pursuant to s. 401.45 or a POLST does not preclude a physician from withholding or withdrawing cardiopulmonary resuscitation as otherwise permitted by law.

Section 2. Subsection (3) of section 400.142, Florida Statutes, is amended to read

400.142 Emergency medication kits; orders not to resuscitate.—

(3) Facility staff may withhold or withdraw cardiopulmonary resuscitation if presented with an order not to resuscitate executed pursuant to s. 401.45 or a Physician Order for Life Sustaining Treatment (POLST). Facility staff and facilities are not subject to criminal prosecution or civil liability, or considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation pursuant to either ~~such~~ order. The absence of an order not to resuscitate executed pursuant to s. 401.45 or a POLST does not preclude a physician from withholding or withdrawing cardiopulmonary resuscitation as otherwise permitted by law.

Section 3. Subsection (7) of section 400.487, Florida Statutes, is amended to read:

400.487 Home health service agreements; physician's, physician assistant's, and advanced registered nurse practitioner's treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate; physician orders for life sustaining treatment.—

(7) Home health agency personnel may withhold or withdraw cardiopulmonary resuscitation if presented with an order not to resuscitate executed pursuant to s. 401.45 or a Physician Order for Life Sustaining Treatment (POLST). The agency shall adopt rules providing for the implementation of such orders. Home health personnel and agencies shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation pursuant to such orders ~~an order~~ and rules adopted by the agency.

Section 4. Paragraph (e) of subsection (1) of section 400.605, Florida Statutes, is amended to read:

400.605 Administration; forms; fees; rules; inspections; fines.—

(1) The agency, in consultation with the department, may adopt rules to administer the requirements of part II of chapter 408. The department, in consultation with the agency, shall by rule establish minimum standards and procedures for a hospice pursuant to this part. The rules must include:

(e) Procedures relating to the implementation of advanced directives; physician orders for life sustaining treatments; and do-not-resuscitate orders.

Section 5. Subsection (8) of section 400.6095, Florida

Statutes, is amended to read:

400.6095 Patient admission; assessment; plan of care; discharge; death.—

(8) The hospice care team may withhold or withdraw cardiopulmonary resuscitation if presented with an order not to resuscitate executed pursuant to s. 401.45 or a Physician Order for Life Sustaining Treatment (POLST). The department shall adopt rules providing for the implementation of such orders. Hospice staff shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation pursuant to such an order and applicable rules. The absence of an order to resuscitate executed pursuant to s. 401.45 or a POLST does not preclude a physician from withholding or withdrawing cardiopulmonary resuscitation as otherwise permitted by law.

Section 6. Subsection (4) of section 401.35, Florida Statutes, is amended to read:

401.35 Rules.—The department shall adopt rules, including definitions of terms, necessary to carry out the purposes of this part.

(4) The rules must establish circumstances and procedures under which emergency medical technicians and paramedics may honor orders by the patient's physician not to resuscitate and a Physician's Order for Life Sustaining Treatment (POLST) and the documentation and reporting requirements for handling such requests.

Section 7. Paragraphs (a) and (c) of subsection (3) of section 401.45, Florida Statutes, are amended to read:

401.45 Denial of emergency treatment; civil liability.—

(3)(a) Resuscitation or other forms of medical intervention may be withheld or withdrawn from a patient by an emergency medical technician, ~~or~~ paramedic, or other health care professional if evidence of a Physician Life Sustaining Order (POLST) or an order not to resuscitate is presented to that professional. A POLST, to be valid , must be on the form adopted by rule of the department, must be signed by the patient's physician, based on consultation with the patient's guardian or legally authorized proxy or surrogate.~~by the patient's physician is presented to the emergency medical technician or paramedic~~. An order not to resuscitate, to be valid, must be on the form adopted by rule of the department. The form must be signed by the patient's physician and by the patient or, if the patient is incapacitated, the patient's health care surrogate or proxy as provided in chapter 765, court-appointed guardian as provided in chapter 744, or attorney in fact under a durable power of attorney as provided in chapter 709. The court-appointed guardian or attorney in fact must have been delegated authority to make health care decisions on behalf of the patient.

(c) The department, in consultation with the Department of Elderly Affairs and the Agency for Health Care Administration, shall develop a standardized do-not-resuscitate identification system with devices that signify, when carried or worn, that the possessor is a patient for whom a physician has issued an order not to administer cardiopulmonary resuscitation. The department may charge a reasonable fee to cover the cost of producing and distributing such identification devices. Use of such devices shall be voluntary.

Section 8. Subsection (4) of section 429.255, Florida Statutes, is amended to read:

429.255 Use of personnel; emergency care.—

(4) Facility staff may withhold or withdraw cardiopulmonary resuscitation or the use of an automated external defibrillator if presented with an order not to resuscitate executed pursuant to s. 401.45 or a Physician Life Sustaining Order (POLST). The department shall adopt rules providing for the implementation of such orders. Facility staff and facilities shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation or use of an automated external defibrillator pursuant to such orders ~~an order~~ and rules adopted by the department. The absence of an order to resuscitate executed pursuant to s. 401.45 or a POLST does not preclude a physician from withholding or withdrawing cardiopulmonary resuscitation or use of an automated external defibrillator as otherwise permitted by law.

Section 9. Subsection (3) of section 429.73, Florida Statutes, is amended to read:

429.73 Rules and standards relating to adult family-care homes.—

(3) The department shall adopt rules providing for the implementation of orders not to resuscitate and Physician Orders for Life Sustaining Treatment (POLST). The provider may withhold or withdraw cardiopulmonary resuscitation if presented with an order not to resuscitate executed pursuant to s. 401.45 or a POLST. The provider shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in

482400

negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation pursuant to such orders ~~an order~~ and applicable rules.

Section 10. Paragraph (c) of subsection (1) of section 765.205, Florida Statutes, is amended to read:

765.205 Responsibility of the surrogate.—

(1) The surrogate, in accordance with the principal's instructions, unless such authority has been expressly limited by the principal, shall:

(c) Provide written consent using an appropriate form whenever consent is required, including a physician's order not to resuscitate or Physician Orders for Life Sustaining Treatment (POLST).

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete line 59

and insert:

training relating to the clearinghouse; amending s. 395.1041, F.S.; authorizing hospital personnel to withhold or withdraw cardiopulmonary resuscitation if an individual has a Physician Order for Life Sustaining Treatment; amending s. 400.142, F.S., authorizing nursing home facility staff to withhold or withdraw cardiopulmonary resuscitation if an individual has a Physician Order for Life Sustaining Treatment; amending s. 400.487, F.S.; authorizing home health agency personnel to withhold or withdraw cardiopulmonary resuscitation if an individual has a Physician Order for Life Sustaining Treatment; amending s. 400.605, F.S.; requiring implementation procedures for Physician Orders for Life Sustaining Treatment in

482400

hospice care; amending s. 400.6095, F.S.; authorizing a hospice care team to withhold or withdraw cardiopulmonary resuscitation if an individual has a Physician Order for Life Sustaining Treatment; amending s. 401.35, F.S.; requiring the Department of Health to establish circumstances and procedures for honoring Physician Orders for Life Sustaining Treatment; amending s. 401.45, F.S.; authorizing emergency medical transportation providers to withhold or withdraw cardiopulmonary resuscitation or other medical interventions if an individual has a Physician Order for Life Sustaining Treatment; provides requirements for the validity of a Physician Order for Life Sustaining Treatment; amending s. 429.255, F.S.; authorizing assisted living facility staff to withhold or withdraw cardiopulmonary resuscitation if an individual has a Physician Order for Life Sustaining Treatment; amending s. 429.73, F.S.; requiring the department to adopt rules for the implementation of Physician Orders for Life Sustaining Treatment in adult family day cares; providing an