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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4063

02/22/2024 Authored by Huot
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health; requiring the commissioner of health to establish a provider
1.3 orders for life-sustaining treatment program; authorizing rulemaking; classifying
1.4 data; establishing immunity for certain acts; appropriating money; amending
1.5 Minnesota Statutes 2022, section 13.3806, by adding a subdivision; proposing
1.6 coding for new law in Minnesota Statutes, chapter 145C.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2022, section 13.3806, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 23. POLST registry data. Data collected and maintained by the POLST registry
1.11 is governed by section 145C.27.

1.12 Sec. 2. [145C.20] CITATION.

1.13 Sections 145C.20 to 145C.28 may be cited as the "Provider Orders for Life-Sustaining
1.14 Treatment Program Act."

1.15 Sec. 3. [145C.21] DEFINITIONS.

1.16 Subdivision 1. Application. For purposes of sections 145C.20 to 145C.28, the following
1.17 terms have the meanings given.

1.18 Subd. 2. Authorized user. "Authorized user" means a person authorized by the
1.19 commissioner to provide information to or obtain information from the POLST registry
1.20 established under section 145C.24.

1.21 Subd. 3. Commissioner. "Commissioner" means the commissioner of health.

2.1 Subd. 4. **Life-sustaining treatment.** "Life-sustaining treatment" means any medical
 2.2 procedure, prescription drug, medical device, or medical intervention that maintains life by
 2.3 sustaining, restoring, or supplanting a vital function. Life-sustaining treatment does not
 2.4 include routine care necessary to keep a patient clean or comfortable.

2.5 Subd. 5. **Minnesota POLST Steering Committee.** "Minnesota POLST Steering
 2.6 Committee" means the multidisciplinary committee established and administered by the
 2.7 Minnesota Medical Association that provides POLST education and training according to
 2.8 a contract with the commissioner.

2.9 Subd. 6. **Nurse practitioner.** "Nurse practitioner" means an individual licensed by the
 2.10 Board of Nursing under sections 148.171 to 148.285 as an advanced practice registered
 2.11 nurse and certified by a national nurse certification organization acceptable to the board to
 2.12 practice as a nurse practitioner.

2.13 Subd. 7. **Physician.** "Physician" means an individual licensed by the Board of Medical
 2.14 Practice under chapter 147 as a doctor of medicine or doctor of osteopathic medicine.

2.15 Subd. 8. **Physician assistant.** "Physician assistant" means an individual licensed by the
 2.16 Board of Medical Practice under chapter 147A as a physician assistant.

2.17 Subd. 9. **POLST.** "POLST" means a provider order for life-sustaining treatment signed
 2.18 by a physician, nurse practitioner, or physician assistant.

2.19 Subd. 10. **POLST program.** "POLST program" means the program established under
 2.20 section 145C.23 and includes the POLST registry established under section 145C.24, the
 2.21 POLST registry call center established under section 145C.25, and the education and training
 2.22 required under section 145C.26, subdivision 1.

2.23 Sec. 4. **[145C.22] POLST NOT REQUIRED; REVOCATION; CHOICE TO**
 2.24 **REMOVE OR NOT INCLUDE.**

2.25 (a) Nothing in sections 145C.20 to 145C.28:

2.26 (1) requires a patient to have a POLST;

2.27 (2) requires a physician, nurse practitioner, or physician assistant to execute a POLST
 2.28 for a patient; or

2.29 (3) requires the commissioner to prescribe the form or content of a POLST or to
 2.30 disseminate forms to be used for a POLST.

2.31 (b) The patient for whom a POLST is executed, or the patient's legal representative:

3.1 (1) may at any time revoke the patient's POLST;

3.2 (2) may at any time choose to have the patient's POLST removed from the POLST
3.3 registry; and

3.4 (3) may choose to not have the patient's POLST included in the POLST registry.

3.5 **Sec. 5. [145C.23] POLST PROGRAM ESTABLISHED.**

3.6 (a) The commissioner must establish and administer a statewide POLST program to
3.7 help ensure the medical treatment preferences of a patient nearing the end of the patient's
3.8 life are honored. In establishing the POLST program, the commissioner must comply with
3.9 all applicable state and federal privacy and security laws and must pursue any changes to
3.10 state law needed to establish and administer the program.

3.11 (b) The POLST program must be based on and consistent with the recommendations in
3.12 the report required under Laws 2023, chapter 70, article 4, section 100, subdivision 3.

3.13 **Sec. 6. [145C.24] POLST REGISTRY.**

3.14 Subdivision 1. **Registry established.** The commissioner must establish and administer
3.15 a statewide POLST registry for the collection and dissemination of provider orders for
3.16 life-sustaining treatment. The POLST registry must be aligned with the most recent federal
3.17 and state health information technology standards and policies to achieve interoperability,
3.18 improve quality, and leverage national and state activities.

3.19 Subd. 2. **Authorized users.** (a) Authorized users of the POLST registry must include
3.20 but are not limited to:

3.21 (1) emergency medical responders as defined in section 144E.001, subdivision 6;

3.22 (2) medical response units registered under section 144E.275;

3.23 (3) emergency medical technicians, advanced emergency medical technicians, and
3.24 paramedics as defined in section 144E.001, subdivisions 5c, 5d, and 5e; and

3.25 (4) health care professionals providing services at a hospital, medical clinic, assisted
3.26 living facility, or skilled nursing facility, or providing services with a home care provider
3.27 or hospice provider.

3.28 (b) Authorized users of the POLST registry are subject to state and federal privacy and
3.29 security laws and policies, as applicable according to the authorized user's role and
3.30 organization.

4.1 Subd. 3. **Submission.** (a) The POLST registry must permit authorized users to submit
4.2 to the registry:

4.3 (1) except POLSTs which a patient or the patient's legal representative chooses to not
4.4 include in the registry, a copy of each current and valid POLST; and

4.5 (2) notice of revocation of the POLST, if the patient or the patient's legal representative
4.6 revokes the POLST.

4.7 (b) Unless a patient or the patient's legal representative chooses to not have the patient's
4.8 POLST included in the registry, all current and valid POLSTs must be submitted to the
4.9 registry in a prompt manner. An effort must be made to ensure that all current and valid
4.10 POLSTs, other than those which a patient or the patient's legal representative chooses to
4.11 not include in the registry, are submitted to the registry.

4.12 Subd. 4. **Obtaining POLSTs.** (a) The POLST registry must have multiple methods for
4.13 authorized users to obtain POLSTs in a timely manner regardless of the authorized user's
4.14 location or technological capabilities. Access may be provided through a web-based portal,
4.15 a POLST registry call center accessed by telephone or radio, and an electronic health record.

4.16 (b) The POLST registry must have one or more consumer access methods for patients
4.17 and their legal representatives to obtain the patient's POLST.

4.18 Subd. 5. **Access by qualified researchers.** The commissioner may authorize qualified
4.19 researchers to access data from POLSTs in the POLST registry. If the commissioner
4.20 authorizes qualified researchers to access data from POLSTs, the commissioner must adopt
4.21 rules governing qualified researcher access to data from POLSTs that must at least address:

4.22 (1) the process for a qualified researcher to request access to data from POLSTs in the
4.23 POLST registry;

4.24 (2) the types of data a qualified researcher may access; and

4.25 (3) steps a qualified researcher must take to protect data obtained under this subdivision.

4.26 Subd. 6. **Contract.** The commissioner may contract with a public or private entity to
4.27 establish and administer the POLST registry.

4.28 Sec. 7. **[145C.25] POLST REGISTRY CALL CENTER.**

4.29 The commissioner must establish and administer a POLST registry call center that must
4.30 operate 24 hours a day, seven days a week to allow authorized users to obtain POLSTs from
4.31 the POLST registry without the use of broadband service. The POLST registry call center:

5.1 (1) must allow authorized users to obtain POLSTs from the POLST registry by telephone
5.2 or radio; and

5.3 (2) must be staffed with medically knowledgeable staff.

5.4 **Sec. 8. [145C.26] MINNESOTA POLST STEERING COMMITTEE.**

5.5 Subdivision 1. **Training and education.** The commissioner must contract with the
5.6 Minnesota POLST Steering Committee to develop and provide training and education to
5.7 the public, authorized users, and other health care providers on the use of POLSTs and on
5.8 the POLST registry.

5.9 Subd. 2. **Advice to commissioner.** The Minnesota POLST Steering Committee must
5.10 advise the commissioner on:

5.11 (1) the form and content of a valid POLST, including any updates to a POLST; and

5.12 (2) the procedure for completing a valid POLST.

5.13 **Sec. 9. [145C.27] DATA PRACTICES.**

5.14 Except for access authorized under section 145C.24 or 145C.25, all data collected,
5.15 received, or maintained by the POLST registry that identifies or could be used to identify
5.16 a patient, authorized user, health care provider, or health care facility is classified as private
5.17 data on individuals as defined in section 13.02, subdivision 12, or nonpublic data as defined
5.18 in section 13.02, subdivision 9. Data in the POLST registry is not subject to a civil or
5.19 administrative subpoena and is not subject to discovery in a civil action, including but not
5.20 limited to a judicial, administrative, arbitration, or mediation proceeding.

5.21 **Sec. 10. [145C.28] IMMUNITY.**

5.22 A person who reports information in good faith to the POLST registry or who acts in
5.23 good faith on information obtained from the POLST registry is immune from any civil
5.24 liability or criminal prosecution that might otherwise apply to the reporting of information
5.25 to the POLST registry or acting on information obtained from the POLST registry.

5.26 **Sec. 11. IMPLEMENTATION.**

5.27 All elements of the POLST program as defined in Minnesota Statutes, section 145C.21,
5.28 subdivision 10, must be implemented by January 1, 2025.

6.1 Sec. 12. APPROPRIATIONS.

6.2 (a) \$500,000 in fiscal year 2025 is appropriated from the general fund to the commissioner
6.3 of health for establishment and administration of the POLST registry and POLST registry
6.4 call center under Minnesota Statutes, sections 145C.24 and 145C.25. The base for this
6.5 appropriation is \$400,000 in fiscal year 2026 and \$400,000 in fiscal year 2027.

6.6 (b) \$100,000 in fiscal year 2025 is appropriated from the general fund to the commissioner
6.7 of health for a contract with the Minnesota POLST Steering Committee under Minnesota
6.8 Statutes, section 145C.26, subdivision 1.