

SENATE BILL REPORT

SB 5562

As Reported by Senate Committee On:
Health Care, February 21, 2013

Title: An act relating to encouraging patient self-determination and health care planning by promoting the use of a form developed pursuant to RCW 43.70.480

Brief Description: Concerning providers and facilities' participation in the provision of medical care or in the withholding or withdrawal of life-sustaining treatment in accordance with a form developed by the department of health.

Sponsors: Senators Becker, Cleveland, Schlicher, Bailey and Keiser.

Brief History:

Committee Activity: Health Care: 2/19/13, 2/21/13 [DPS].

SENATE COMMITTEE ON HEALTH CARE

Majority Report: That Substitute Senate Bill No. 5562 be substituted therefor, and the substitute bill do pass.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Keiser, Ranking Member; Bailey, Cleveland, Ericksen, Frockt, Parlette and Schlicher.

Staff: Kathleen Buchli (786-7488)

Background: Physician Orders for Life-Sustaining Treatment (POLST) provide ways for people with advanced progressive illness or frailty to express their end of life decisions. The goal of the POLST program is to effectively communicate the wishes of seriously ill patients to have or to limit life-sustaining medical treatment as they move from one care setting to another. POLST differs from an advance directive such as a living will in that it is an actionable medical order dealing with immediate needs of patients. The POLST form ensures that a patient's end of life care decisions are made known to health care providers, family members, and emergency personnel.

The POLST form is used statewide in Washington and is endorsed by several associations and state agencies including the Washington State Hospital Association, the Washington State Medical Association, and the Association of Washington Public Hospital Districts. State statute requires the Department of Health (DOH) to adopt guidelines and protocols to train emergency medical personnel in responding to the site of an emergency to treat a patient who

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has indicated that the patient does not wish to receive futile medical treatment. The statute requires DOH to adopt a simple form to be used statewide. DOH has adopted POLST to fulfill this requirement.

Summary of Bill (Recommended Substitute): Health care providers or health care facilities that participate in the provision of medical care or in the withholding or withdrawal of life-sustaining treatment in accordance with a POLST order are immune from legal liability, including civil, criminal, and professional conduct sanctions, as long as the participation has been conducted in good faith, within the scope of his or her credentials or employment, and is not found to be negligent.

EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Substitute): The immunity for withholding or withdrawing life-sustaining treatment is provided to health care professionals, including long-term care workers who act within the scope of their credentials or employment. Certain facilities are provided immunity for compliance with POLST orders, including community residential services businesses and home care agencies.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: We agree that technical amendments need to be made to accomplish the intent of the bill. The POLST form is completed in a conversation between the health care provider and the patient. The POLST form focuses on emergency first responders, and there are no protections for health care providers. This puts them in the position of not providing the treatment the patient wants. Residents in adult family homes are vulnerable and many have expressed end of life wishes. POLST is a valuable tool to help people with their end of life decisions. These people do not want to go to hospitals. Providers are concerned about liability and require treatment in contradiction to the POLST form. The Department of Social and Health Services has suggested that only emergency personnel can follow POLSTs. Many health care providers are told to perform CPR despite the POLST form. This bill will help to honor patients' decisions. If the POLST form is portable, it follows the patient and shows the patient's wishes. This takes the burden off the family and any care provider could accept the form as the patient's wishes. We support providing immunity to care providers. This is not just about protecting physicians from liability. It is about protecting patients in their final hours.

Persons Testifying: PRO: Laird Pisto, Multicare Health Systems; Debra Everson, Adult Family Homes Nurses Assn.; Gregg VandeKieft, WA POLST Task Force; Sean Atteridge, AARP.