

OREGON ADMINISTRATIVE RULES
DEPARTMENT OF HUMAN SERVICES, PUBLIC HEALTH DIVISION
CHAPTER 333

DIVISION 270

**OREGON POLST (PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT)
REGISTRY**

333-270-0010

Purpose

(1) These rules establish a registry (the Oregon POLST Registry) within the Oregon Health Authority for the collection of POLST forms and the dissemination of information from POLSTs to help ensure that medical treatment preferences for individuals nearing the end of the individual's life are honored.

(2) The Registry may be operated and maintained by a contractor of the Authority.

Stat. Auth: Oregon Laws 2009, Chapter 595, Sec.1184

Stats. Implemented: Oregon Laws 2009, Chapter 595, Sec.1184

333-270-0020

Scope and Applicability

(1) The requirements for submitting a POLST form or a revocation in OAR 333-270-0040 apply to POLST forms signed on or after December 3, 2009.

(2) The Authority is not responsible for and these rules do not:

(a) Prescribe the content or form of a POLST;

(b) Provide for the dissemination of POLST forms;

(c) Provide POLST teaching resources;

(d) Provide for educating the public about POLST; or

(e) Provide training for health care professionals about POLST.

(3) The Authority and the POLST Registry Advisory Committee may cooperate with organizations and agencies active in POLST issues to help carry out the activities described in section (2) of this rule.

(4) The Registry shall accept POLST forms signed by a physician, nurse practitioner, or physician assistant:

(a) Licensed in Oregon at the time the POLST form information is entered into the Registry; or

(b) Permitted to practice in Oregon under ORS 677.060(1) or 678.031(1).

(5) A person who is the subject of the POLST form (meeting the requirements defined below) need not be a resident of Oregon in order for the form to be included in the Registry.

(6) A more recently executed POLST form automatically voids a previous POLST form.

Stat. Auth: Oregon Laws 2009, Chapter 595, Sec.1184

Stats. Implemented: Oregon Laws 2009, Chapter 595, Sec.1184, 1185

333-270-0030

Definitions

As used in OAR chapter 333, division 270:

(1) "Ambulance service" has the meaning given that term in ORS 682.025.

- (2) "Authority" means the Oregon Health Authority.
 - (3) "Authorized user" means a person authorized by the Authority to provide information to or receive information from the Registry.
 - (4) "Hospice program" has the meaning given that term in ORS 443.850.
 - (5) "Hospital" has the meaning given that term in ORS 442.015.
 - (6) "Life-sustaining treatment" means any medical procedure, pharmaceutical, medical device or medical intervention that maintains life by sustaining, restoring or supplanting a vital function. "Life-sustaining treatment" does not include routine care necessary to sustain patient cleanliness and comfort.
 - (7) "Long term care facility" means nursing facilities, assisted living and residential care facilities and adult foster homes licensed under OAR chapter 411, divisions 85, 54, and 50, or facilities federally funded to care for veterans.
 - (8) "Non-transporting emergency services agency" means any individual, partnership, corporation, association, governmental agency or unit or other entity that uses certified first responders or EMTs to provide emergency care or non-emergency care in the out-of-hospital environment to persons who are ill or injured, but does not transport patients to a hospital.
 - (9) "Nurse practitioner" has the meaning given that term in ORS 678.010; and means a nurse practitioner permitted to practice in a federal facility pursuant to ORS 678.031(1).
 - (10) "Patient" means the person who is the subject of the POLST form.
 - (11) "Personal representative" has the meaning given that term in ORS 192.519.
 - (12) "Physician" has the meaning given that term in ORS 677.010.
 - (13) "Physician assistant" has the meaning given that term in ORS 677.495.
 - (14) "POLST" means a Physician Order for Life-Sustaining Treatment signed by a physician, nurse practitioner or physician assistant.
 - (15) "POLST form" means a form, prescribed by the Oregon Health & Science University that contains a POLST, and any revision of the POLST.
 - (16) "Registry" means the Oregon POLST Registry authorized by Oregon Laws 2009, chapter 595, sec. 1184.
 - (17) "Revocation" means the cancellation of a POLST form in any written form.
- Stat. Auth: Oregon Laws 2009, Chapter 595, Sec.1182, 1184
 Stats. Implemented: Oregon Laws 2009, Chapter 595, Sec.1184

333-270-0040

Submission of POLST Forms

- (1) Physicians, nurse practitioners, and physician assistants are required to submit or cause to be submitted:
 - (a) Completed POLST forms they have signed, unless the patient has opted out of the Registry; and
 - (b) Revocations of which they are aware.
- (2) Any person may submit a completed POLST form or revocation to the Registry, regardless of when the POLST form was completed.
- (3) In order for a POLST form to be considered complete, the form (and any supporting documentation) shall include, but is not limited to:
 - (a) The patient's full name;
 - (b) The patient's date of birth;
 - (c) Orders related to cardiopulmonary resuscitation;

- (d) The legible, printed name and the signature of the physician, nurse practitioner or physician assistant; and
- (e) The date the order was signed.
- (4) If a POLST form is submitted and determined to be incomplete, the Registry will notify the submitter that the form is incomplete, describe the missing information, and request that the form be resubmitted once it is complete.
- (5) A POLST form submitted under this rule may be submitted by fax or mail. If the Registry develops a secure method of accepting POLST forms electronically, POLST forms may be submitted electronically.
- (6) The Registry shall record in the Registry records, as soon as reasonably possible after receipt of the POLST form, the following:
- (a) The information from a POLST form described in subsections (3)(a) through (e) of this rule; and
- (b) Instructions if any, regarding medical interventions, use of antibiotics, and artificially administered nutrition.
- (7) If a revocation is submitted to the Registry, that patient's POLST form shall be removed as soon as reasonably possible from the active Registry database. The Registry shall retain the POLST form for documentation, program evaluation and research purposes.
- (8)(a) The first time a physician, nurse practitioner, or physician assistant submits a POLST form to the Registry, the Registry shall verify that the physician, nurse practitioner, or physician assistant is licensed, in Oregon, or is otherwise permitted to practice under ORS 677.060(1) or ORS 678.031(1).
- (b) Verification of licensure status under this section is not necessary for POLST forms signed before December 3, 2009.
- (9) The Registry shall notify, in writing, a patient, or a patient's personal representative if known, and the health care provider who signed the POLST form or revocation when the Registry has received a POLST form or revocation. The notification required by this section only applies if the POLST form or revocation contains contact information for the patient, patient's personal representative, and health care provider. The notification shall inform the person to contact the Registry if any of the information on the POLST form or revocation is incorrect.
- (10) Notification under section (9) of this rule shall be documented by the Registry and the documentation shall include the date of notification and who was notified.
- (11) A person reporting information to the Registry in good faith is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the reporting of information to the Registry.
- (12) The Registry or any contractor that operates and maintains the Registry is not responsible for:
- (a) Verifying the accuracy of the information on a POLST form or revocation submitted to the Registry, except as specified in section (8) of this rule; or
- (b) Actions taken pursuant to information that was fraudulently submitted to the Registry.
- [Note:** Practitioners may obtain POLST forms by contacting the Oregon Health and Science University, at: polst@ohsu.edu, or visiting www.POLST.org.]
- Stat. Auth: Oregon Laws 2009, Chapter 595, Sec.1184
- Stats. Implemented: Oregon Laws 2009, Chapter 595, Sec.1184, 1189

333-270-0050

Access to the Registry

- (1) Registry staff, including its Emergency Communications Center staff, shall have access to POLST Registry information as needed to perform Registry functions. Registry staff and the Authority shall have access to Registry information as needed to conduct program evaluation.
- (2) The following persons are authorized to contact the Registry's Emergency Communication Center and obtain information about a patient currently being treated:
 - (a) A licensed health care provider working in or for:
 - (A) A hospital emergency department or acute care unit where a patient is admitted;
 - (B) A licensed ambulance service; or
 - (C) A non-transporting emergency services agency.
 - (b) A staff person calling on behalf of a person described in subsection (a) of this section.
- (3) The Registry shall release to a person described in section (1) of this rule, by phone:
 - (a) Whether the patient being treated has a POLST form recorded in the Registry, and if so;
 - (b) The POLST orders.
- (4) The following persons, facilities, or programs are authorized to contact the Registry's office to determine whether a patient being treated by that person, at that facility, or by that program has a POLST form recorded in the Registry, whether the form is current, and the POLST orders:
 - (a) A physician, nurse practitioner or physician assistant who signed and submitted a POLST form to the Registry;
 - (b) Licensed or accredited:
 - (A) Long term care facilities;
 - (B) Hospice programs; or
 - (C) Hospitals.
 - (c) A patient's health care professional.
 - (d) A staff person calling on behalf of a person described in subsection (a) or (c) of this section.
- (5) A patient or a patient's personal representative may contact the Registry to determine if that patient has a POLST form, whether the form is current, and the POLST order.
 - (a) The Registry shall request that a patient verify certain information in the Registry to ensure that the patient is who he or she purports to be, prior to the release of any Registry information.
 - (b) The Registry shall require a patient's personal representative to provide proof of the personal representative's identity and authority to act on behalf of the patient, and if necessary and legally required, provide an Authorization for the Release of Information that meets HIPAA requirements, prior to releasing information.
- (6) The Registry may, in its discretion, require that a person described in section (2) or (4) of this rule provide proof of his or her identity, authority, licensing status, or need for the information prior to releasing any information from the Registry
- (7) The Registry may provide the information requested under section (4) or (5) of this rule by fax, mail, or electronically, but may not release information over the phone.
- (8) A person acting on information obtained from the Registry in good faith is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to acting on information obtained from the Registry.
- (9) A person who requests information from the Registry who does not have the authority to obtain the information, or obtains information from the Registry for fraudulent reasons may be subject to a civil penalty of \$500 per violation.

Stat. Auth: Oregon Laws 2009, Chapter 595, Sec.1184

Stats. Implemented: Oregon Laws 2009, Chapter 595, Sec.1184, 1189

333-270-0060

Confidentiality of Registry Information

(1) Registry information may only be released to:

- (a) Persons and facilities described in OAR 333-270-0050 or 333-270-0080; and
- (b) Authorized researchers.

(2) Registry information may only be released for the purposes specified in OAR 333-270-0050 or 333-270-0080.

(3) All information collected or developed by the Registry that identifies or could be used to identify a patient, health care provider or facility is confidential and is not subject to civil or administrative subpoena or to discovery in a civil action, including but not limited to a judicial, administrative, arbitration or mediation proceeding.

(4) Only the minimum amount of information needed to accomplish the intended purposes shall be released under this rule.

Stat. Auth: Oregon Laws 2009, Chapter 595, Sec.1184

Stats. Implemented: Oregon Laws 2009, Chapter 595, Sec.1184, 1188

333-270-0070

POLST Registry Advisory Committee

(1) The POLST Registry Advisory Committee is composed of individuals meeting the requirements in Oregon Laws 2009, chapter 595, section 1186 and committee members are appointed by the director of the Authority.

(2) The Committee shall:

- (a) Meet at least four times per year;
- (b) Advise the Authority regarding the implementation, operation, and evaluation of the Registry;
- (c) Consult with the Authority in drafting rules on the implementation, operation, and evaluation of the Registry; and
- (d) Review proposals from researchers to access Registry information and advise the Authority on whether access should be granted.

(3) The Authority shall provide appropriate staff support for the Committee.

Stat. Auth: Oregon Laws 2009, Chapter 595, Sec.1184, 1186

Stats. Implemented: Oregon Laws 2009, Chapter 595, Sec.1184, 1186

333-270-0080

Access to Registry Information by Researchers

(1) The Authority may approve the release of Registry information to qualified researchers for appropriate research projects if an institutional review board has approved the research in accordance with 45 CFR Part 46.

(2) A researcher's application shall be reviewed by the POLST Registry Advisory Committee prior to release of information. Such request to the Authority for release of information may be made on a standard POLST Data Request Form or by such other manner approved by the Authority.

(3) If a researcher is permitted access to information in the Registry, the researcher shall agree, in writing, to maintain the confidentiality of the information received from the Registry, provided

that this shall not limit aggregation, de-identification and other use and disclosure of such information for appropriate research purposes.

(4) Any Registry information released to a researcher under this rule may be de-identified by the Registry before release if deemed by the Authority as appropriate and reasonable under the circumstances.

Stat. Auth: Oregon Laws 2009, Chapter 595, Sec.1184

Stats. Implemented: Oregon Laws 2009, Chapter 595, Sec.1184