

CHAPTER 328
SB 213-FN – FINAL VERSION

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SENATE BILL ***213-FN***

AN ACT establishing a registry for provider orders for life-sustaining treatment.

SPONSORS: Sen. Reagan, Dist 17; Sen. Fuller Clark, Dist 21; Sen. Bradley, Dist 3;
Sen. Carson, Dist 14; Sen. Cataldo, Dist 6; Sen. Gilmour, Dist 12; Sen. Larsen,
Dist 15; Sen. Lasky, Dist 13; Sen. Odell, Dist 8; Sen. Soucy, Dist 18; Sen. Watters,
Dist 4; Rep. Suzanne Smith, Graf 8; Rep. Kotowski, Merr 24

COMMITTEE: Health, Education and Human Services

AMENDED ANALYSIS

This bill establishes the New Hampshire POLST Registry Act. Under this bill, a patient may execute a form to be signed by the patient and his or her health care provider relative to life-sustaining treatment to ensure that the patient's preferences are known in the event of an emergency. This bill also establishes a special fund to accept donations, gifts, and grants received for the purposes of the bill.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 328
SB 213-FN – FINAL VERSION
- Page 2 -

- 1 (2) A copy of a revised POLST; and
- 2 (3) Notice of any known revocation of a POLST;
- 3 (b) Prescribing the manner for submitting the information described in subparagraph
- 4 (a);
- 5 (c) Requiring the release of registry information to authorized users for treatment
- 6 purposes;
- 7 (d) Authorizing notification by the registry to specified persons of the receipt, revision, or
- 8 revocation of a POLST; and
- 9 (e) Establishing procedures to protect the accuracy and confidentiality of information
- 10 submitted to the registry.

11 III. To the extent allowed by the Health Insurance Portability and Accountability Act of

12 1996 (HIPAA), the department may permit qualified researchers to obtain registry data for research

13 purposes conditioned upon removal by the department of any data that identifies a health care

14 provider, a facility, or an individual patient, including his or her name, address, telephone number,

15 and social security number. If the department intends to permit qualified researchers to obtain

16 registry data, the department shall first adopt rules, pursuant to RSA 541-A, governing the process

17 which shall include but not be limited to:

- 18 (a) The definition of a qualified researcher;
- 19 (b) The process for a qualified researcher to request and obtain registry data;
- 20 (c) The types of data that a qualified researcher may be provided from the registry; and
- 21 (d) The manner by which a qualified researcher shall protect registry data obtained
- 22 under this provision.

23 IV. The department may contract with a private or public entity to establish or maintain the

24 registry.

25 V. There is established the New Hampshire POLST registry fund, which shall be nonlapsing

26 and continually appropriated to the department and administered by the commissioner. This fund

27 shall be used for costs incurred by the department in the course of carrying out the requirements of

28 this chapter. All monetary grants, gifts, donations, or interest generated by these funds shall be

29 deposited with the state treasurer in the fund.

30 137-L:4 Application of Chapter to Department. Nothing in this chapter shall require the

31 department to:

- 32 I. Prescribe the form or content of a POLST;
- 33 II. Disseminate forms to be used for a POLST;
- 34 III. Educate the public about POLSTs; or
- 35 IV. Train health care providers about POLSTs.

36 137-L:5 POLST Registry Advisory Committee.

CHAPTER 328
SB 213-FN – FINAL VERSION
- Page 3 -

1 I. There is hereby established the New Hampshire POLST registry advisory committee to advise
2 the commissioner regarding the implementation, operation, and evaluation of the POLST registry. The
3 advisory committee shall be appointed by the commissioner and shall include, at a minimum:

4 (a) A health professional with extensive experience and leadership in POLST issues.

5 (b) A physician who has worked with emergency medical services providers and who has
6 extensive experience in POLST issues.

7 (c) A representative from the hospital community with extensive experience in POLST
8 issues.

9 (d) A representative from the long-term care community with extensive experience in
10 POLST issues.

11 (e) A representative from the hospice community with extensive experience in POLST
12 issues.

13 (f) An emergency medical services provider actively involved in providing emergency
14 medical services.

15 (g) Two members of the public with active interest in end-of-life treatment preferences,
16 at least one of whom represents the interests of minorities.

17 (h) The director of the division of fire standards and training and emergency medical
18 services, or designee, shall serve as a voting ex officio member of the committee.

19 II. Except for the director of the division of fire standards and training and emergency
20 medical services or designee, the term of office of each member shall be 3 years and until a successor
21 is appointed and qualified. Initial members of the committee under subparagraphs I(a)-(g) shall
22 serve staggered terms. Vacancies shall be filled in the same manner and for the unexpired terms.
23 The committee shall meet as necessary but at least 4 times per year at a time and place specified by
24 the commissioner. Four members of the committee shall constitute a quorum. The department shall
25 provide necessary staff support to the committee.

26 III. The commissioner shall consult with the committee in drafting rules required under this
27 chapter.

28 137-L:6 Application of Chapter. Nothing in this chapter shall be construed to require an
29 individual to have a POLST or to require a health professional to authorize or execute a POLST. A
30 POLST may be revoked at any time by the patient.

31 137-L:7 Confidentiality. Except as provided in RSA 137-L:3, all information collected or
32 developed by the POLST registry that identifies or could be used to identify a patient, or health care
33 provider or facility shall be confidential and shall not be subject to civil or administrative subpoena
34 or to discovery, in a civil action, including but not limited to a judicial, administrative, arbitration, or
35 mediation proceeding.

36 137-L:8 Immunity. Any person reporting information to the POLST registry or acting on

CHAPTER 328
SB 213-FN – FINAL VERSION
- Page 4 -

1 information obtained from the POLST registry in good faith shall be immune from any civil or
2 criminal liability that might otherwise be incurred or imposed with respect to the reporting of
3 information to the POLST registry or acting on information obtained from the POLST registry.

4 328:2 New Subparagraph; Moneys to be Credited to the New Hampshire POLST Registry Fund.
5 Amend RSA 6:12, I(b) by inserting after subparagraph (316) the following new subparagraph:

6 (317) Moneys received for the purposes of RSA 137-L, which shall be credited to the
7 New Hampshire POLST registry fund established in RSA 137-L:3, V.

8 328:3 Effective Date. This act shall take effect July 1, 2015.

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10 Approved: Enacted in accordance with Part II, Article 44 of N.H. Constitution, without signature of
11 the Governor, August 2, 2014.

12 Effective Date: July 1, 2015

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