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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 572 Session of  
2021

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INTRODUCED BY YAW, J. WARD, BAKER, PHILLIPS-HILL AND HAYWOOD,  
APRIL 16, 2021

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REFERRED TO HEALTH AND HUMAN SERVICES, APRIL 16, 2021

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AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, in general provisions  
3 relating to health care, further providing for applicability,  
4 for definitions, for criminal penalties, for emergency  
5 medical services, for definitions, for orders, bracelets and  
6 necklaces, for revocation, for absence of order, bracelet or  
7 necklace and for emergency medical services, repealing  
8 provisions relating to advisory committee and providing for  
9 discontinuance and for Pennsylvania orders for life-  
10 sustaining treatment; and making editorial changes.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 5421(a) of Title 20 of the Pennsylvania  
14 Consolidated Statutes is amended to read:

15 § 5421. Applicability.

16 (a) General rule.--This chapter applies to advance health  
17 care directives [and], out-of-hospital nonresuscitation orders  
18 and Pennsylvania orders for life-sustaining treatment.

19 \* \* \*

20 Section 2. The definitions of "medical command physician,"  
21 "order" and "patient" in section 5422 of Title 20 are amended  
22 and the section is amended by adding definitions to read:

1 § 5422. Definitions.

2 The following words and phrases when used in this chapter  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 \* \* \*

6 "Medical command physician." A licensed physician who is  
7 authorized to give a medical command under [the act of July 3,  
8 1985 (P.L.164, No.45), known as the Emergency Medical Services  
9 Act] 35 Pa.C.S. Ch. 81 (relating to emergency medical services  
10 system).

11 \* \* \*

12 "Order." An out-of-hospital do-not-resuscitate order as  
13 defined under section 5483 (relating to definitions) or  
14 Pennsylvania orders for life-sustaining treatment as defined  
15 under section 5493 (relating to definitions).

16 "Out-of-hospital do-not-resuscitate order" or "OOH-DNR  
17 order." An out-of-hospital do-not-resuscitate order as defined  
18 under section 5483 (relating to definitions).

19 ["Patient." An out-of-hospital do-not-resuscitate patient as  
20 defined under section 5483 (relating to definitions).]

21 "Pennsylvania orders for life-sustaining treatment" or

22 "POLST." Pennsylvania orders for life-sustaining treatment as  
23 defined under section 5493 (relating to definitions).

24 \* \* \*

25 Section 3. Sections 5432, 5445(b), 5483, 5484(a) and (b),  
26 5485, 5486 and 5487 of Title 20 are amended to read:

27 § 5432. Criminal penalties.

28 (a) Criminal homicide.--A person shall be subject to  
29 prosecution for criminal homicide as provided in 18 Pa.C.S. Ch.  
30 25 (relating to criminal homicide) if the person intends to

1 cause the withholding or withdrawal of life-sustaining treatment  
2 contrary to the wishes of the principal or patient and, because  
3 of that action, directly causes life-sustaining treatment to be  
4 withheld or withdrawn and death to be hastened and:

5 (1) falsifies or forges the advance health care  
6 directive, OOH-DNR order, bracelet [or], necklace or POLST  
7 of that principal or patient; or

8 (2) willfully conceals or withholds personal knowledge  
9 of a revocation of an advance health care directive or DNR  
10 status.

11 (b) Interference with health care directive.--A person  
12 commits a felony of the third degree if that person willfully:

13 (1) conceals, cancels, alters, defaces, obliterates or  
14 damages an advance health care directive, OOH-DNR order,  
15 bracelet [or], necklace or POLST without the consent of the  
16 principal or patient;

17 (2) causes a person to execute an advance health care  
18 directive or order or wear a bracelet or necklace by undue  
19 influence, fraud or duress; or

20 (3) falsifies or forges an advance health care  
21 directive, OOH-DNR order, bracelet [or], necklace or POLST  
22 or any amendment or revocation thereof, the result of which  
23 is a direct change in the health care provided to the  
24 principal or patient.

25 § 5445. Emergency medical services.

26 \* \* \*

27 (b) Applicability.--This section is applicable only in those  
28 instances where an out-of-hospital DNR order is not in effect  
29 under section 5484 (relating to OOH-DNR orders, bracelets and  
30 necklaces).

1 § 5483. Definitions.

2 The following words and phrases when used in this subchapter  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Department." The Department of Health of the Commonwealth.

6 "Emergency medical services provider." [A health care  
7 provider recognized under the act of July 3, 1985 (P.L.164,  
8 No.45), known as the Emergency Medical Services Act.] As defined  
9 under 35 Pa.C.S. § 8103 (relating to definitions). The term  
10 includes those individuals recognized under 42 Pa.C.S. § 8331.2  
11 (relating to good Samaritan civil immunity for use of automated  
12 external defibrillator).

13 "EMS." Emergency medical services.

14 "Health care provider." A person who is licensed, certified  
15 or otherwise authorized by the laws of this Commonwealth to  
16 administer or provide health care in the ordinary course of  
17 business or practice of a profession. The term includes  
18 personnel recognized under [the act of July 3, 1985 (P.L.164,  
19 No.45), known as the Emergency Medical Services Act,] 35 Pa.C.S.  
20 Ch. 81 (relating to emergency medical services system) and those  
21 individuals recognized under 42 Pa.C.S. § 8331.2 (relating to  
22 good Samaritan civil immunity for use of automated external  
23 defibrillator).

24 "Out-of-hospital do-not-resuscitate bracelet." A bracelet in  
25 the standard format set forth in section 5484 (relating to OOH-  
26 DNR orders, bracelets and necklaces), supplied by the department  
27 and issued by the attending physician, which may be worn at the  
28 patient's option to notify emergency medical services providers  
29 of the presence of an OOH-DNR order.

30 "Out-of-hospital do-not-resuscitate necklace." A necklace in

1 the standard format set forth in section 5484 (relating to OOH-  
2 DNR orders, bracelets and necklaces), supplied by the department  
3 and issued by the attending physician, which may be worn at the  
4 patient's option to notify emergency medical services providers  
5 of the presence of an OOH-DNR order.

6 "Out-of-hospital do-not-resuscitate order[.]" or "OOH-DNR  
7 order." An order in the standard format set forth in section  
8 5484 (relating to OOH-DNR orders, bracelets and necklaces),  
9 supplied by the department and issued by the attending  
10 physician, directing emergency medical services providers to  
11 withhold cardiopulmonary resuscitation from the patient in the  
12 event of respiratory or cardiac arrest.

13 "Out-of-hospital do-not-resuscitate patient." An individual  
14 who:

15 (1) Has an end-stage medical condition or is permanently  
16 unconscious.

17 (2) Pursuant to section 5484(a) (relating to OOH-DNR  
18 orders, bracelets and necklaces), possesses and in any manner  
19 displays or causes to be displayed for emergency medical  
20 services providers an apparently valid OOH-DNR order,  
21 bracelet or necklace.

22 "Surrogate." A health care agent or a health care  
23 representative.

24 § 5484. [**Orders**] OOH-DNR orders, bracelets and necklaces.

25 (a) Issuance.--An attending physician, upon the request of a  
26 patient who is at least 18 years of age, has graduated from high  
27 school, has married or is an emancipated minor, or the patient's  
28 surrogate if the surrogate is so authorized, shall issue to the  
29 patient an OOH-DNR order and may issue at the request of the  
30 patient or the patient's surrogate a bracelet or necklace

1 supplied by the department. The patient may, at the patient's  
2 option, wear the bracelet or display the order or necklace to  
3 notify emergency medical services providers of the patient's DNR  
4 status.

5 (b) Format of OOH-DNR order.--The department shall, with the  
6 advice of the Pennsylvania Emergency Health Services Council and  
7 with the assistance of the regional emergency medical services  
8 councils, make available standard OOH-DNR orders for issuance to  
9 patients by attending physicians of this Commonwealth. The form  
10 of the order shall contain, but not be limited to, the  
11 following:

12 PENNSYLVANIA OUT-OF-HOSPITAL

13 DO-NOT-RESUSCITATE ORDER

14 Patient's full legal name:

15 I, the undersigned, state that I am the attending  
16 physician of the patient named above. The above-named patient  
17 or the patient's surrogate has requested this order, and I  
18 have made the determination that the patient is eligible for  
19 an order and satisfies one of the following:

20 ..... has an end-stage medical condition.

21 ..... is permanently unconscious and has a living  
22 will directing that no cardiopulmonary resuscitation be  
23 provided to the patient in the event of the patient's cardiac  
24 or respiratory arrest.

25 I direct any and all emergency medical services  
26 personnel, commencing on the effective date of this order, to  
27 withhold cardiopulmonary resuscitation (cardiac compression,  
28 invasive airway techniques, artificial ventilation,  
29 defibrillation and other related procedures) from the patient  
30 in the event of the patient's respiratory or cardiac arrest.

1 I further direct such personnel to provide to the patient  
2 other medical interventions, such as intravenous fluids,  
3 oxygen or other therapies necessary to provide comfort care  
4 or to alleviate pain, unless directed otherwise by the  
5 patient or the emergency medical services provider's  
6 authorized medical command physician.

7 Signature of attending physician:

8 Printed name of attending physician:

9 Dated:

10 Attending physician's emergency telephone number:

11 I, the undersigned, hereby direct that in the event of my  
12 cardiac and/or respiratory arrest efforts at cardiopulmonary  
13 resuscitation not be initiated and that they may be withdrawn  
14 if initiated. I understand that I may revoke these directions  
15 at any time by giving verbal instructions to the emergency  
16 medical services providers, by physical cancellation or  
17 destruction of this form or my bracelet or necklace or by  
18 simply not displaying this form or the bracelet or necklace  
19 for my EMS [caregivers] providers.

20 Signature of patient (if capable of making informed  
21 decisions):

22 I, the undersigned, hereby certify that I am authorized  
23 to execute this order on the patient's behalf by virtue of  
24 having been designated as the patient's surrogate and/or by  
25 virtue of my relationship to the patient (specify  
26 relationship: .....). I hereby direct that in the event  
27 of the patient's cardiac and/or respiratory arrest efforts at  
28 cardiopulmonary resuscitation not be initiated and be  
29 withdrawn if initiated.

30 Signature of surrogate (if patient is incapable of making

1 informed decisions):

2 \* \* \*

3 § 5485. Revocation.

4 (a) Patient.--If a patient has obtained an OOH-DNR order,  
5 only the patient may revoke the patient's DNR status.

6 (b) Surrogate.--If a surrogate has obtained an OOH-DNR  
7 order, the patient or the surrogate may revoke a patient's  
8 status.

9 (c) Manner.--Revocation under this section may be done at  
10 any time without regard to the patient's physical or mental  
11 condition and in any manner, including verbally or by destroying  
12 or not displaying the OOH-DNR order, bracelet or necklace.

13 § 5486. Absence of OOH-DNR order, bracelet or necklace.

14 If an OOH-DNR order has not been issued by an attending  
15 physician, a presumption does not arise as to the intent of the  
16 individual to consent to or to refuse the initiation,  
17 continuation or termination of life-sustaining treatment.

18 § 5487. Emergency medical services.

19 (a) Medical command instructions.--Notwithstanding the  
20 absence of an OOH-DNR order, bracelet or necklace pursuant to  
21 this section, emergency medical services providers shall at all  
22 times comply with the instructions of an authorized medical  
23 command physician to withhold or discontinue resuscitation.

24 (b) Effect of OOH-DNR order, bracelet or necklace.--

25 (1) Emergency medical services providers are authorized  
26 to and shall comply with an OOH-DNR order if made aware of  
27 the order by examining a bracelet, a necklace or the order  
28 itself.

29 (2) Emergency medical services providers shall provide  
30 other medical interventions necessary and appropriate to



1 provide comfort and alleviate pain, including intravenous  
2 fluids, medications, oxygen and any other intervention  
3 appropriate to the level of the certification of the  
4 provider, unless otherwise directed by the patient or the  
5 emergency medical services provider's authorized medical  
6 command physician.

7 (3) As used in this subsection, the term "comply" means:

8 (i) to withhold cardiopulmonary resuscitation from  
9 the patient in the event of respiratory or cardiac  
10 arrest; or

11 (ii) to discontinue and cease cardiopulmonary  
12 resuscitation in the event the emergency medical services  
13 provider is presented with an OOH-DNR order or discovers  
14 a necklace or bracelet after initiating cardiopulmonary  
15 resuscitation.

16 (c) Uncertainty regarding validity or applicability of OOH-  
17 DNR order, bracelet or necklace.--

18 (1) Emergency medical services providers who in good  
19 faith are uncertain about the validity or applicability of an  
20 OOH-DNR order, bracelet or necklace shall render care in  
21 accordance with their level of certification.

22 (2) Emergency medical services providers who act under  
23 paragraph (1) shall not be subject to civil or criminal  
24 liability or administrative sanction for failure to comply  
25 with an OOH-DNR order under this section.

26 (d) Recognition of other states' orders.--Emergency medical  
27 services or [out-of-hospital DNR] OOH-DNR orders, bracelets or  
28 necklaces valid in states other than this Commonwealth shall be  
29 recognized in this Commonwealth to the extent that these orders,  
30 bracelets or necklaces and the criteria for their issuance are

1 consistent with the laws of this Commonwealth. Emergency medical  
2 services providers shall act in accordance with the provisions  
3 of this section when encountering a patient with an apparently  
4 valid EMS or out-of-hospital DNR form, bracelet or necklace  
5 issued by another state. Emergency medical services providers  
6 acting in good faith under this section shall be entitled to the  
7 same immunities and protections that would otherwise be  
8 applicable.

9 Section 4. Section 5488 of Title 20 is repealed:

10 [§ 5488. Advisory committee.

11 (a) Establishment.--Within 60 days of the effective date of  
12 this section, the department shall establish a committee to  
13 assist it in determining the advisability of using a  
14 standardized form containing orders by qualified physicians that  
15 detail the scope of medical treatment for patients' life-  
16 sustaining wishes.

17 (b) Membership.--The committee shall include representatives  
18 from the Pennsylvania Medical Society, the Hospital and Health  
19 System Association of Pennsylvania, the Joint State Government  
20 Commission's Advisory Committee on Decedents' Estates Laws, the  
21 Pennsylvania Bar Association, the Department of Aging, the  
22 Department of Public Welfare and other interested persons at the  
23 department's discretion.

24 (c) Scope of review.--The committee's review shall include,  
25 but not be limited to, examination of the following:

26 (1) The need to adopt this type of standardized form in  
27 view of the existing use of do-not-resuscitate orders.

28 (2) The use and evaluation of use of such forms in other  
29 states.

30 (3) Any other matters determined by the department to be



- 1 5498.10. Review requirements.
- 2 5498.11. Compliance.
- 3 5498.12. Emergency medical services.
- 4 5498.13. Immunity.
- 5 5498.14. Conflict with advance health care directive.
- 6 5498.15. POLST executed under prior POLST form.
- 7 5498.16. POLST executed under PLSWC form.
- 8 5498.17. POLST executed in another state or jurisdiction.
- 9 5498.18. POLST registry study.
- 10 § 5491. Scope of subchapter.

11 This subchapter relates to Pennsylvania Orders for Life-  
12 Sustaining Treatment.

13 § 5492. Legislative findings and intent.

14 The General Assembly finds and declares as follows:

15 (1) All individuals have a qualified right to control  
16 their health care and should not lose that right if they  
17 become incompetent or have never been a competent adult.

18 (2) The Commonwealth has recognized this right by  
19 providing for advance health care directives in which  
20 individuals may provide direction and state their goals and  
21 preferences about future health care and by providing for  
22 surrogate decision makers for incompetent adults and  
23 unemancipated minors.

24 (3) A Pennsylvania order for life-sustaining treatment,  
25 or POLST, differs from an advance health care directive as it  
26 converts an individual's wishes regarding health care into a  
27 medical order that is immediately actionable and applicable  
28 across all health care settings.

29 (4) The use of POLST may overcome many of the  
30 limitations and problems associated with advance health care

1 directives and existing orders regarding cardiopulmonary  
2 resuscitation and other end-of-life care, including out-of-  
3 hospital do-not-resuscitate orders.

4 (5) In many cases, advance health care directives only  
5 name a surrogate decision maker to make health care decisions  
6 for the principal or lack specificity as to the principal's  
7 goals and preferences for a medical condition that  
8 subsequently develops because it was not foreseen by the  
9 principal.

10 (6) Existing medical orders frequently are ineffective  
11 when the patient is transferred from one care setting to  
12 another because the procedures, forms and requirements at  
13 each care setting may be different, resulting in a loss in  
14 the ability of patients to have their wishes honored.

15 (7) Existing emergency medical services protocols may  
16 require emergency medical services personnel to proceed to  
17 cardiopulmonary resuscitation when an individual is found in  
18 cardiac and respiratory arrest, even if the individual has  
19 completed an advance directive or has otherwise clearly  
20 indicated that the individual does not wish to receive  
21 cardiopulmonary resuscitation.

22 (8) A POLST, which is executed by a health care  
23 practitioner under appropriate circumstances to implement the  
24 wishes of the patient expressed directly by the patient or  
25 through a surrogate decision maker, provides clear direction  
26 for the patient's care regarding health care issues likely to  
27 emerge given the patient's current medical condition.

28 (9) A key step in the POLST process is the health care  
29 practitioner's review with the patient or the patient's  
30 surrogate decision maker of the patient's current health

1 status, diagnoses and prognosis to determine whether a POLST  
2 order would be appropriate or should be updated.

3 (10) A POLST is appropriate for individuals with serious  
4 illnesses or frailty if their health care practitioner would  
5 not be surprised if they died within the next year and their  
6 current health status, diagnoses and prognosis indicates  
7 standing medical orders concerning treatment options and  
8 other care are appropriate.

9 (11) Among vulnerable populations, including persons  
10 with disabilities, a POLST is appropriate for seriously ill  
11 or frail patients if their health care practitioner would not  
12 be surprised if they died within the next year. A POLST is  
13 not appropriate for the entire population.

14 (12) It should not be assumed that all patients in any  
15 facility, including a nursing home, should have or would  
16 desire a POLST.

17 (13) The well-being of the patient is paramount in  
18 considering a POLST, not cost savings to the government or  
19 insurers.

20 (14) A POLST is appropriately entered following a shared  
21 decision-making process that facilitates patient consent that  
22 is voluntary, educated, collaborative and thoughtful,  
23 including a discussion of the patient's current clinical  
24 status, treatment options and likely outcomes, together with  
25 the patient's goals of care, preferences and values.

26 (15) Conversations about a POLST must avoid any bias  
27 against continuation of care and must not characterize the  
28 continuation of life as burdensome. When appropriate, these  
29 conversations should emphasize palliative care and hospice  
30 availability.

1           (16) A standardized POLST form, which is easily  
2 recognized, understood and implemented, can greatly advance  
3 the ability of patients to ensure that their medical care is  
4 aligned with their goals of care, preferences and values, as  
5 informed by a shared decision-making process.

6           (17) Advance health care directives remain critically  
7 important for adults from the age of majority until death. An  
8 advance health care directive, rather than a POLST, is the  
9 appropriate advance care planning tool for healthy patients.

10           (18) When the use of a POLST becomes appropriate, an  
11 existing advance health care directive will help shape the  
12 choices of the patient or the patient's surrogate decision  
13 maker when discussing a POLST with a health care provider.

14           (19) This subchapter is intended to provide a framework  
15 and legal authority for a POLST to be valid and portable  
16 across all care settings, consistent with the foregoing  
17 findings.

18 § 5493. Definitions.

19           The following words and phrases when used in this subchapter  
20 shall have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

22           "Committee." The POLST Advisory Committee established under  
23 this subchapter.

24           "Department." The Department of Health of the Commonwealth.

25           "Health care facility." Any of the following:

26           (1) A facility that is licensed as a health care  
27 facility by the department under Chapter 8 of the act of July  
28 19, 1979 (P.L.130, No.48), known as the Health Care  
29 Facilities Act, including a hospital, long term care  
30 facility, home health care agency or hospice.

1       (2) A facility that is licensed or approved by the  
2 Department of Human Services under Article IX or X of the act  
3 of June 13, 1967 (P.L.31, No.21), known as the Human Services  
4 Code, and provides health care services, including a  
5 psychiatric facility or intermediate care facility for the  
6 developmentally or intellectually disabled.

7       (3) A facility that is licensed as a prescribed  
8 pediatric extended care center by the department under the  
9 act of November 24, 1999 (P.L.884, No.54), known as the  
10 Prescribed Pediatric Extended Care Centers Act.

11 "Health care insurer." A person, corporation or other entity  
12 that offers administrative, indemnity or payment services under  
13 a program of health care or disability benefits, including the  
14 following:

15       (1) An insurance company, association, exchange or  
16 fraternal benefit society subject to the act of May 17, 1921  
17 (P.L.682, No.284), known as The Insurance Company Law of  
18 1921.

19       (2) A health maintenance organization subject to the act  
20 of December 29, 1972 (P.L.1701, No.364), known as the Health  
21 Maintenance Organization Act.

22       (3) A hospital plan corporation subject to 40 Pa.C.S.  
23 Ch. 61 (relating to hospital plan corporations).

24       (4) A professional health service corporation subject to  
25 40 Pa.C.S. Ch. 63 (relating to professional health services  
26 plan corporations).

27       (5) A self-insured employee welfare benefit plan.

28       (6) A third-party administrator of a self-insured  
29 employee welfare benefit plan.

30       (7) A Federal, State or local government sponsored or



1 operated program.

2 "Health care practitioner." A physician, physician assistant  
3 or certified registered nurse practitioner acting in accordance  
4 with applicable law, including their respective licensing acts  
5 and regulations.

6 "Health care provider." As defined in section 5483 (relating  
7 to definitions).

8 "Patient Life-Sustaining Wishes Committee." The committee  
9 appointed to assist the department in determining the  
10 advisability of using a standardized form containing orders by  
11 qualified physicians that detail the scope of medical treatment  
12 for patients' life-sustaining wishes under former section 5488  
13 (relating to advisory committee).

14 "Pennsylvania orders for life-sustaining treatment" or  
15 "POLST." One or more medical orders, issued for the care of an  
16 individual, regarding cardiopulmonary resuscitation or other  
17 medical interventions that are entered in accordance with  
18 section 5498.2 (relating to requirements for valid POLST).

19 "PLSWC form." The form for a POLST previously approved by  
20 the department on the recommendation of the Patient Life-  
21 Sustaining Wishes Committee.

22 "POLST form." The form for a POLST adopted under section  
23 5498 (relating to POLST form).

24 "Secretary." The Secretary of Health of the Commonwealth.

25 "Surrogate decision maker." A health care agent, health care  
26 representative, guardian of the person or parent of a minor who  
27 is legally authorized to make a health care decision for a  
28 patient.

29 § 5494. Prohibitions on use.

30 (a) Stable medical conditions.--A POLST is not recommended

1 for individuals with stable, even if chronic, medical conditions  
2 and years of life expectancy.

3 (b) Construction.--Nothing in this subchapter shall be  
4 construed to advance or support euthanasia, suicide or health  
5 care practitioner-assisted suicide.

6 § 5495. Voluntary consent requirement.

7 (a) Patient consent.--No POLST shall be valid without the  
8 voluntary consent of the patient or a surrogate decision maker.

9 (b) Health insurance or coverage.--A health care insurer may  
10 not:

11 (1) Require an individual to consent to a POLST or to  
12 have a POLST as a condition for being insured.

13 (2) Charge an individual a different rate or fee whether  
14 or not the individual consents to, or has, a POLST.

15 (3) Require a health care provider to have a policy to  
16 offer a POLST to any individual.

17 (4) Provide a health care provider a financial  
18 incentive, payment, discount or rating incentive for having a  
19 policy or procedure relating to POLST completion.

20 (5) Impose a rating or reimbursement penalty if a health  
21 care provider fails to achieve a target for POLST  
22 completions.

23 (c) Consultation.--Notwithstanding subsection (b), a health  
24 care provider may be paid for consultation with or counseling of  
25 a patient concerning a POLST or offering advance health care  
26 planning.

27 (d) Health care provider and health care facility  
28 policies.--The following shall apply:

29 (1) A health care provider and a health care facility  
30 may not make consent to a POLST or having a POLST a condition

1 of admission to, continued occupancy at, or the provision of  
2 health care services by the health care provider or a health  
3 care facility.

4 (2) A health care provider and a health care facility  
5 may not provide a patient or surrogate decision maker an in-  
6 kind or financial incentive, payment or discount for  
7 consenting to or having a POLST.

8 (3) In complying with paragraphs (1) and (2), a health  
9 care provider and a health care facility may have a policy to  
10 offer a POLST to appropriate individuals as part of a  
11 conversation about goals of care, personal values and  
12 preferences, benefits of various treatment options and  
13 avoiding unwanted burden.

14 § 5496. POLST Advisory Committee.

15 (a) Appointment.--The secretary shall appoint a POLST  
16 Advisory Committee, including a chairperson and vice chairperson  
17 of the committee.

18 (b) Role of committee.--The committee shall advise the  
19 department on POLST-related matters, including the format and  
20 content of the POLST form and education about POLST.

21 (c) Composition.--The following shall apply:

22 (1) After consulting Statewide organizations comprised  
23 of relevant stakeholders, the secretary shall appoint one or  
24 more representatives of the following to the committee:

25 (i) The Pennsylvania Medical Society.

26 (ii) The Hospital and Healthsystem Association of  
27 Pennsylvania.

28 (iii) The Pennsylvania Homecare Association.

29 (iv) The Pennsylvania Bar Association.

30 (v) The Joint State Government Commission's Advisory

1 Committee on Decedents' Estates Laws.

2 (vi) State and local emergency medical services  
3 providers.

4 (vii) Long-term care facilities and providers of  
5 long-term support.

6 (viii) Patient advocates.

7 (ix) Disability rights advocates.

8 (x) Faith-based health care providers.

9 (xi) Bioethicists, including both a secular and  
10 faith-based representative.

11 (2) The secretary may appoint additional individuals to  
12 the committee to provide expertise and a broad representation  
13 of interests.

14 (3) The secretary shall ensure that members appointed to  
15 the committee include individuals with knowledge about:

16 (i) community POLST coalition efforts; and

17 (ii) nationally accepted physician orders for life-  
18 sustaining treatment standards and educational resources,  
19 including the National POLST Paradigm Task Force.

20 § 5497. Administration of POLST program.

21 (a) Duties.--The department shall perform the following  
22 duties in consultation with the committee:

23 (1) Adopt and update a POLST form under section 5498  
24 (relating to POLST form).

25 (2) Develop and update basic education materials on  
26 POLST under section 5498.1 (relating to education about  
27 POLST).

28 (3) Make the POLST form and its educational materials  
29 available and accessible through the department's publicly  
30 accessible Internet website.

1 (b) Plain language requirement.--In consultation with the  
2 committee, the department shall make the POLST form and its  
3 educational materials clear, concise, well-organized and  
4 otherwise understandable to patients, their families, other  
5 surrogate decision makers and health care providers.

6 (c) Coordination.--In the performance of its  
7 responsibilities under this subchapter, the department shall  
8 coordinate with other State agencies that address the special  
9 needs of individuals with disabilities and older persons,  
10 including the Department of Aging and the Department of Human  
11 Services.

12 § 5498. POLST form.

13 (a) General rule.--In consultation with the committee, the  
14 department shall adopt, and periodically update when  
15 appropriate, a standard POLST form for health care practitioners  
16 to issue a POLST with the voluntary consent of the patient or an  
17 authorized surrogate decision maker.

18 (b) Medical order options.--The following shall apply:

19 (1) The POLST form shall include options for a set of  
20 medical orders for cardiopulmonary resuscitation and other  
21 medical interventions that are determined to be appropriate  
22 for a POLST.

23 (2) The POLST form shall be outcome neutral. The medical  
24 order options shall range from full treatment to comfort care  
25 only, with options in between.

26 (3) The POLST form may include options for nutrition and  
27 hydration administered by gastric tube or intravenously or by  
28 other medically administered means. If the consent is  
29 provided by a surrogate decision maker, the following  
30 requirements shall apply:

1 (i) Section 5456(c)(5)(iii) (relating to authority  
2 of health care agent).

3 (ii) Section 5461(c) (relating to decisions by  
4 health care representative).

5 (iii) Section 5462(c) (relating to duties of  
6 attending physician and health care provider).

7 (4) Except as provided under section 5498.2(a)(2)  
8 (relating to requirements for valid POLST), no medical order  
9 option section shall be required to be completed for the  
10 POLST to be valid.

11 (c) Notices.--The following shall apply:

12 (1) The POLST form shall clearly and conspicuously state  
13 that a POLST may only be issued with the voluntary consent of  
14 the patient or the patient's authorized surrogate decision  
15 maker and that a patient or surrogate decision maker may not  
16 be compelled by a health care provider or health care insurer  
17 to complete or sign a POLST.

18 (2) The POLST form may include other notices regarding  
19 patient rights, health care practitioner responsibilities and  
20 availability of educational information which the department,  
21 in consultation with the committee, determines are  
22 appropriate.

23 (d) Identification and signatures.--The following shall  
24 apply:

25 (1) The POLST form shall provide for identification of  
26 the patient, any surrogate decision maker who consents to the  
27 POLST on behalf of the patient and the health care  
28 practitioner who issues the POLST.

29 (2) The POLST form shall provide for the signatures of  
30 the patient, any surrogate decision maker and the health care

1 practitioner who issues the POLST.

2 (e) Instructions.--The POLST form shall include instructions  
3 for its completion. The instructions shall clearly convey:

4 (1) The sections required to be completed for the POLST  
5 to be valid.

6 (2) The optional sections, including those regarding  
7 health care other than cardiopulmonary resuscitation.

8 (f) Opportunity for comment.--The following shall apply:

9 (1) Prior to adopting the initial POLST form developed  
10 after the effective date of this section, the department  
11 shall transmit to the Legislative Reference Bureau notice of  
12 the proposed form for publication in the Pennsylvania  
13 Bulletin and provide an opportunity for comment on the  
14 proposed form for at least 60 days after publication of the  
15 notice. The following shall apply:

16 (i) In addition to submitting for publication notice  
17 of the initial form in the Pennsylvania Bulletin, the  
18 department shall serve a copy of the form to the Health  
19 and Human Services Committee of the Senate and the Health  
20 Committee of the House of Representatives.

21 (ii) Within 60 days after the close of the comment  
22 period, the department shall submit for publication a  
23 subsequent notice in the Pennsylvania Bulletin that  
24 responds to each comment the department has received. In  
25 providing responses to each comment, the department shall  
26 indicate the reasons for adopting or rejecting the  
27 recommendations made during the comment period. The  
28 department shall submit for publication a final version  
29 of the POLST form in the Pennsylvania Bulletin and on the  
30 department's publicly accessible Internet website.

1           (2) The department shall comply with the procedures  
2 under paragraph (1) for updates to the POLST form.

3           (3) The adoption of the initial POLST form and any  
4 subsequent updates to the POLST form shall be exempt from the  
5 following:

6           (i) Article II of the act of July 31, 1968 (P.L.769,  
7 No.240), referred to as the Commonwealth Documents Law.

8           (ii) Sections 204(b) and 301(10) of the act of  
9 October 15, 1980 (P.L.950, No.164), known as the  
10 Commonwealth Attorneys Act.

11           (iii) The act of June 25, 1982 (P.L.633, No.181),  
12 known as the Regulatory Review Act.

13           (iv) Section 612 of the act of April 9, 1929  
14 (P.L.177, No.175), known as The Administrative Code of  
15 1929.

16           (g) POLST forms.--POLST forms executed prior to the  
17 effective date of this section shall be recognized as valid  
18 POLST forms and shall have full force and effect as if executed  
19 on or after the effective date of this section.

20           (h) Printed copies.--The POLST form may not be required to  
21 be obtained exclusively from the department or any particular  
22 vendor. The department shall provide a process for the POLST  
23 form to be downloaded free of charge from a publicly accessible  
24 Internet website.

25 § 5498.1. Education about POLST.

26           (a) General rule.--In consultation with the committee, the  
27 department shall develop, and periodically update when  
28 appropriate, educational materials about POLST for patients,  
29 surrogate decision makers, health care providers and the public.

30           (b) Basic education.--The department shall make its basic



1 educational materials available in alternative formats that are  
2 accessible to persons with a disability. The department's POLST  
3 educational materials shall include basic information that  
4 explains and provides guidance on the following:

5 (1) The definition of a POLST, including the types of  
6 medical interventions that may be covered.

7 (2) How a POLST is an immediately actionable medical  
8 order and is valid and portable across all patient settings.

9 (3) When a POLST may be useful and appropriate and when  
10 a POLST may not be appropriate.

11 (4) The differences between a POLST and an advance  
12 health care directive.

13 (5) The voluntary consent requirement, including a  
14 patient's right to refuse to execute a POLST without adverse  
15 consequences under section 5495(b) and (d) (relating to  
16 voluntary consent requirement).

17 (6) The importance of a shared decision-making process  
18 to assure understanding and voluntary consent by patients and  
19 surrogate decision makers.

20 (7) When review of a POLST is required or recommended.

21 (8) The obligation of health care providers to comply  
22 with a POLST under this subchapter.

23 (9) Legal requirements for surrogate decision making.

24 (10) Appropriate inclusion of patients, to the extent  
25 possible, regardless of the patient's physical or mental  
26 condition, in decision making when decisions are made on the  
27 patient's behalf by surrogate decision makers.

28 (c) Training recommendations.--The department's educational  
29 materials shall include recommendations for training of health  
30 care practitioners and others who educate patients about POLST

1 or assist in completion of a POLST form to assure that the  
2 practitioner or other individual has the practiced skills of  
3 those conversations and understands the applicable law, medical  
4 issues and treatments covered by a POLST. These materials shall  
5 incorporate information consistent with the findings in section  
6 5492(9), (10), (11), (12), (13), (14), (15) and (16) (relating  
7 to legislative findings and intent).

8 (d) Other resources.--The department may provide information  
9 about the availability of educational materials from other  
10 sources, including nonprofit organizations that provide  
11 education, training and resources for POLST programs.

12 § 5498.2. Requirements for valid POLST.

13 (a) General rule.--To be valid, a POLST shall require each  
14 of the following:

15 (1) Use of the POLST form, except under sections 5498.5  
16 (relating to copies of orders), 5498.15 (relating to POLST  
17 executed under prior POLST form), 5498.16 (relating to POLST  
18 executed under PLSWC form) and 5498.17 (relating to POLST  
19 executed in another state or jurisdiction).

20 (2) Completion of the medical order section regarding  
21 cardiopulmonary resuscitation.

22 (3) The date and signature of a health care practitioner  
23 in accordance with section 5498.6 (relating to signature  
24 options), except under subsection (b).

25 (4) The date and signature of the patient or a surrogate  
26 decision maker in accordance with section 5498.6, except  
27 under subsection (c).

28 (b) Verbal orders.--A verbal order is effective from the  
29 date given without countersignature until the expiration of the  
30 period of countersignature set forth under paragraph (2) or (3).

1 A health care practitioner's verbal order for a POLST shall be  
2 deemed to meet the requirements of subsection (a) (2) if all of  
3 the following requirements are met:

4 (1) The order is entered for a patient receiving care  
5 from a health care facility.

6 (2) The order is documented on the POLST form and  
7 countersigned by the health care practitioner in accordance  
8 with any applicable laws and regulations governing the health  
9 care facility, including a time frame in which the order must  
10 be countersigned.

11 (3) No law or regulation governing the health care  
12 facility establishes a time limit in which the order must be  
13 countersigned, and the order is countersigned by the health  
14 care practitioner within seven days.

15 (c) Verbal consent.--A surrogate decision maker's verbal  
16 consent for a POLST shall be deemed to satisfy the requirements  
17 of subsection (a) (4) if all of the following requirements are  
18 met:

19 (1) Obtaining the signature of the surrogate decision  
20 maker is not feasible in a timely manner.

21 (2) The consent is documented on the POLST form by the  
22 health care facility in accordance with its policies and  
23 procedures.

24 (3) The signature of the surrogate decision maker is  
25 obtained as soon as feasible.

26 (d) Effectiveness.--A POLST shall be effective on the date  
27 it meets the requirements of this section.

28 § 5498.3. Portability.

29 (a) General rule.--A POLST executed in accordance with this  
30 subchapter shall be valid anywhere within this Commonwealth,

1 including all health care facilities, the patient's residence  
2 and other care settings outside of a health care facility, and  
3 while the patient is in transit from one health care facility or  
4 care setting to another.

5 (b) Authority of health care practitioners.--A POLST  
6 executed in accordance with this subchapter shall be valid in a  
7 health care facility regardless of whether the health care  
8 practitioner who signed the order has clinical privileges with  
9 the health care facility.

10 (c) Other orders.--This subchapter does not prohibit a do-  
11 not-resuscitate or other order issued for care within a health  
12 care facility from being valid and actionable within that health  
13 care facility in accordance with the laws and regulations  
14 governing the health care facility.

15 § 5498.4. Team care.

16 A health care facility may designate individuals who have  
17 been trained in a manner consistent with section 5498.1(c)  
18 (relating to education about POLST), including nurses and social  
19 workers, to participate in conversations with a patient or the  
20 patient's surrogate decision maker regarding a POLST or  
21 assisting in completion of the POLST form.

22 § 5498.5. Copies of orders.

23 A copy of a POLST, including a photocopy, facsimile or other  
24 electronic copy, shall be as effective as the original POLST.

25 § 5498.6. Signature options.

26 (a) Options.--A signature required by section 5498.2  
27 (relating to requirements for valid POLST) may be provided by a  
28 hand-written signature or any other means allowed under this  
29 section.

30 (b) Patient unable to sign.--If a patient is unable to sign

1 by a written signature, it shall be sufficient for:

2 (1) the patient to sign by a mark; or

3 (2) another individual to sign for the patient if that  
4 patient specifically directs the other individual to sign the  
5 POLST for the patient.

6 (c) Electronic signatures.--In the case of a patient  
7 receiving care from a health care facility, a signature on a  
8 POLST may be obtained by any electronic means that is authorized  
9 by the policies and procedures of the facility and is consistent  
10 with the laws governing the facility, including a digitized  
11 signature and a digital signature. A copy of the POLST shall  
12 show a representative image of the signature in the applicable  
13 signature field.

14 § 5498.7. Standards for surrogate decision makers.

15 (a) General rule.--When making a decision about a POLST on  
16 behalf of a patient, a surrogate decision maker shall comply  
17 with all applicable legal requirements for health care decision  
18 making by a surrogate decision maker, including those provided  
19 under subsection (b), and the decisions of the surrogate  
20 decision maker are subject to all applicable legal restrictions  
21 on decisions by a surrogate decision maker.

22 (b) Specific laws.--Surrogate decision makers must comply  
23 with the following:

24 (1) Subchapter C (relating to health care agents and  
25 representatives), including:

26 (i) Section 5456(c) (relating to authority of health  
27 care agent).

28 (ii) Section 5461(c) (relating to decisions by  
29 health care representative).

30 (iii) Section 5462(c) (relating to duties of

1 attending physician and health care provider).

2 (2) Chapter 55 (relating to incapacitated persons).

3 (c) Minors.--A surrogate decision maker for an unemancipated  
4 minor shall be subject to the requirements and restrictions  
5 applicable to a health care representative for an adult when  
6 making a decision about a POLST on behalf of the minor.

7 (d) Competent patient.--This section does not limit the  
8 right of a competent patient to consent to a POLST.

9 § 5498.8. Revocation.

10 (a) Consent.--A patient or a surrogate decision maker acting  
11 within a decision-making authority may revoke consent to all or  
12 part of a POLST at any time and in any manner that communicates  
13 an intent to revoke.

14 (b) Notice.--A health care provider or surrogate decision  
15 maker who is informed of a revocation shall promptly communicate  
16 the fact of the revocation to any attending health care provider  
17 and to any health care facility from which the patient is  
18 receiving care.

19 (c) Implementation.--A health care provider that is notified  
20 of a POLST revocation shall record that the POLST is void in any  
21 medical records containing the order that are maintained by the  
22 health care provider.

23 § 5498.9. Transfer requirements.

24 (a) Notice of POLST.--A health care facility that transfers  
25 a patient with a POLST to another health care facility shall  
26 provide the POLST to the receiving facility and any health care  
27 providers who are responsible for the patient's care during  
28 transport to the receiving facility. The notice of the order  
29 shall be provided prior to the transfer, or, if prior notice is  
30 not feasible, as soon as feasible thereafter.

1 (b) Compliance.--The requirements of section 5498.11  
2 (relating to compliance) shall apply in the event that the  
3 receiving health care provider or health care provider involved  
4 in the transfer is unable in good conscience to comply with the  
5 POLST or the policies of the health care provider preclude  
6 compliance.

7 § 5498.10. Review requirements.

8 (a) Mandatory review.--In the event a patient with a POLST  
9 is admitted or transferred to a health care facility, the  
10 treating health care provider at the health care facility shall  
11 review the POLST as soon as feasible with the patient or the  
12 patient's authorized surrogate decision maker. The POLST shall  
13 remain effective unless and until modified or voided as a result  
14 of the review.

15 (b) Recommended review.--In consultation with the committee,  
16 the department shall develop recommendations for other  
17 situations in which it is appropriate or advisable for a POLST  
18 to be reviewed, giving consideration to the following  
19 circumstances:

20 (1) A substantial change in the patient's health status.

21 (2) A change in the patient's goals of care or treatment  
22 preferences.

23 § 5498.11. Compliance.

24 (a) Notification by attending physician or health care  
25 provider.--If an attending physician or other health care  
26 provider cannot in good conscience comply with a POLST or if the  
27 policies of a health care provider preclude compliance with a  
28 POLST, the attending physician or health care provider shall so  
29 inform the patient, if the patient is competent, and any  
30 surrogate decision maker who consented to the order on behalf of

1 the patient.

2 (b) Transfer.--The attending physician or health care  
3 provider under subsection (a) shall make every reasonable effort  
4 to assist in the transfer of the patient to another physician or  
5 health care provider who will comply with the POLST.

6 (c) Liability.--If transfer under subsection (b) is  
7 impossible, the provision of care necessary to sustain life to a  
8 patient may not subject an attending physician or a health care  
9 provider to criminal or civil liability or administrative  
10 sanction for failure to carry out the POLST.

11 (d) Policies.--The department shall require health care  
12 facilities to have policies and procedures for implementation of  
13 a POLST.

14 § 5498.12. Emergency medical services.

15 (a) Medical command instructions.--Notwithstanding the  
16 absence of a do-not-resuscitate order in a POLST, emergency  
17 medical services providers shall at all times comply with the  
18 instructions of an authorized medical command physician to  
19 withhold or discontinue resuscitation.

20 (b) Effect of POLST do-not-resuscitate order.--The following  
21 shall apply:

22 (1) Emergency medical services providers shall comply  
23 with a do-not-resuscitate order in a POLST if made aware of  
24 the order. In order to be in compliance with the do-not-  
25 resuscitate order in a POLST, an emergency medical service  
26 provider must:

27 (i) withhold cardiopulmonary resuscitation from the  
28 patient in the event of respiratory and cardiac arrest;

29 or

30 (ii) discontinue and cease cardiopulmonary



1 resuscitation, in the event the emergency medical  
2 services provider is presented with a do-not-resuscitate  
3 order in a POLST after initiating cardiopulmonary  
4 resuscitation.

5 (2) Emergency medical services providers shall provide  
6 other medical interventions necessary and appropriate to  
7 provide comfort and alleviate pain, including intravenous  
8 fluids, medications, oxygen and any other intervention  
9 appropriate to the level of the certification of the  
10 provider, unless otherwise directed by the patient or the  
11 emergency medical services provider's authorized medical  
12 command physician.

13 (c) Uncertainty regarding validity or applicability of do-  
14 not-resuscitate order in POLST.--The following shall apply:

15 (1) Emergency medical services providers who in good  
16 faith are uncertain about the validity or applicability of a  
17 do-not-resuscitate order in a POLST shall render care in  
18 accordance with their level of certification.

19 (2) Emergency medical services providers who act under  
20 paragraph (1) may not be subject to civil or criminal  
21 liability or administrative sanction for failure to comply  
22 with a do-not-resuscitate order in a POLST.

23 (d) Uncertainty regarding validity or applicability of  
24 POLST.--Emergency medical services providers are not required  
25 to, but may if they deem it necessary, contact the medical  
26 command physician prior to complying with a POLST.

27 § 5498.13. Immunity.

28 (a) Compliance.--A health care provider or other person may  
29 not be subject to civil or criminal liability or to discipline  
30 for unprofessional conduct for complying with a POLST based upon

1 the good faith assumption that the orders therein were valid  
2 when made and have not been revoked or terminated.

3 (b) Noncompliance.--A health care provider or other person  
4 may not be subject to civil or criminal liability or to  
5 discipline for unprofessional conduct for refusing to comply  
6 with a POLST on the good faith belief that:

7 (1) The POLST is not valid.

8 (2) Compliance with the POLST would be unethical or, to  
9 a reasonable degree of medical certainty, would result in  
10 medical care having no medical basis in addressing any  
11 medical need or condition of the patient, provided that the  
12 health care provider complies in good faith with sections  
13 5462(c) (relating to duties of attending physician and health  
14 care provider) and 5498.11 (relating to compliance).

15 (c) Other protection.--This section does not limit the  
16 immunity available to a health care provider or person under  
17 section 5431 (relating to liability) or 5498.12(c) (2) (relating  
18 to emergency medical services).

19 § 5498.14. Conflict with advance health care directive.

20 If a POLST conflicts with a provision of an advance health  
21 care directive, the provision of the instrument latest in date  
22 of execution shall prevail to the extent of the conflict.

23 § 5498.15. POLST executed under prior POLST form.

24 A POLST executed on a POLST form that was valid when executed  
25 shall remain valid even if the department subsequently adopts a  
26 revised form.

27 § 5498.16. POLST executed under PLSWC form.

28 (a) Validity.--Except as provided under subsection (b), a  
29 POLST executed on the PLSWC form prior to the adoption of a  
30 POLST form under this subchapter is effective to the same extent

1 as it would be effective if executed on the POLST form.

2 (b) Emergency medical services providers.--Emergency medical  
3 services providers are not required to, but may if they deem it  
4 necessary, contact the medical command physician prior to  
5 complying with a POLST executed on the PLSWC form.

6 (c) Immunity.--For purposes of the immunity under sections  
7 5431 (relating to liability) and 5498.13 (relating to immunity),  
8 a POLST executed on the PLSWC form shall be deemed to be a POLST  
9 executed under this subchapter.

10 § 5498.17. POLST executed in another state or jurisdiction.

11 (a) Validity.--Except as provided under subsection (b), a  
12 health care provider may comply with a POLST, or its substantial  
13 equivalent executed under the laws of another state or  
14 jurisdiction and in conformity with the laws of that state or  
15 jurisdiction, if:

16 (1) the order meets the requirements of section  
17 5498.2(a)(2), (3) and (4) (relating to requirements for valid  
18 POLST); and

19 (2) the health care provider consults, as soon as  
20 feasible, with the patient if competent and any surrogate  
21 decision maker regarding continued compliance with the order.

22 (b) Exception.--Subsection (a) may not apply to orders  
23 executed in another state or jurisdiction to the extent that the  
24 order directs procedures or the withholding or withdrawal of  
25 procedures under circumstances that are inconsistent with the  
26 laws of this Commonwealth, including section 5498.7 (relating to  
27 standards for surrogate decision makers).

28 (c) Immunity.--For purposes of the immunity under sections  
29 5431 (relating to liability) and 5498.13 (relating to immunity),  
30 a POLST, or its substantial equivalent that was executed under

1 the laws of another state or jurisdiction and is valid under  
2 subsections (a) and (b), shall be deemed to be a POLST executed  
3 under this subchapter.

4 § 5498.18. POLST registry study.

5 (a) Study.--In consultation with the committee and the  
6 Pennsylvania eHealth Partnership Authority, the department shall  
7 study the feasibility and cost of creating an Internet-based  
8 POLST registry that would allow health care providers caring for  
9 a patient to obtain a current POLST for the patient.

10 (b) Report.--The department shall report the results of the  
11 study to the Health and Human Services Committee of the Senate  
12 and the Health Committee of the House of Representatives. The  
13 department shall report the status of the study to the  
14 committees at least every 180 days until the final results are  
15 reported.

16 Section 7. This act shall take effect as follows:

17 (1) The following provisions shall take effect  
18 immediately:

19 (i) This section.

20 (ii) The addition of 20 Pa.C.S. § 5496.

21 (2) The remainder of this act shall take effect in 90  
22 days.