

1 **LIFE WITH DIGNITY ORDER AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jani Iwamoto**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to life with dignity orders.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires the Department of Health to designate a uniform life with dignity order that
13 is developed by a nationally recognized entity;

14 ▶ authorizes the Department of Health to designate an electronic registry system for
15 life with dignity orders by rule;

16 ▶ applies the provisions of the Uniform Electronic Transactions Act to signatures that
17 are required on a life with dignity order; and

18 ▶ allows a verbal confirmation to satisfy the requirement for a signature on a life with
19 dignity form under limited circumstances.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **75-2a-106**, as last amended by Laws of Utah 2009, Chapter 99



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **75-2a-106** is amended to read:

30 **75-2a-106. Emergency medical services -- Life with dignity order.**

31 (1) A life with dignity order may be created by or on behalf of a person as described in
32 this section.

33 (2) A life with dignity order shall, in consultation with the person authorized to consent
34 to the order pursuant to this section, be prepared by:

35 (a) the physician, APRN, or, subject to Subsection (11), physician assistant of the
36 person to whom the life with dignity order relates; or

37 (b) a health care provider who:

38 (i) is acting under the supervision of a person described in Subsection (2)(a); and

39 (ii) is:

40 (A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

41 (B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician

42 Assistant Act;

43 (C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health
44 Professional Practice Act; or

45 (D) another health care provider, designated by rule as described in Subsection (10).

46 (3) A life with dignity order shall be signed:

47 (a) personally, by the physician, APRN, or, subject to Subsection (11), physician
48 assistant of the person to whom the life with dignity order relates; and

49 (b) (i) if the person to whom the life with dignity order relates is an adult with health
50 care decision making capacity, by:

51 (A) the person; or

52 (B) an adult who is directed by the person to sign the life with dignity order on behalf
53 of the person;

54 (ii) if the person to whom the life with dignity order relates is an adult who lacks health
55 care decision making capacity, by:

56 (A) the surrogate with the highest priority under Section [75-2a-111](#);

57 (B) the majority of the class of surrogates with the highest priority under Section

58 [75-2a-111](#); or

59 (C) a person directed to sign the order by, and on behalf of, the persons described in
60 Subsection (3)(b)(ii)(A) or (B); or

61 (iii) if the person to whom the life with dignity order relates is a minor, by a parent or
62 guardian of the minor.

63 (4) If a life with dignity order relates to a minor and directs that life sustaining
64 treatment be withheld or withdrawn from the minor, the order shall include a certification by
65 two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining
66 treatment is in the best interest of the minor.

67 (5) A life with dignity order:

68 (a) shall be in writing[;]:

69 (i) on a form [~~approved~~] designated by the Department of Health;

70 (ii) on a physical or electronic uniform life with dignity order form that is developed by
71 a nationally recognized entity and designated by the Department of Health; or

72 (iii) if an electronic registry system is designated by the Department of Health under
73 Subsection (10)(b), through the system approved by the Department of Health;

74 (b) shall state the date on which the order was made;

75 (c) may specify the level of life sustaining care to be provided to the person to whom
76 the order relates; and

77 (d) may direct that life sustaining care be withheld or withdrawn from the person to
78 whom the order relates.

79 (6) A health care provider or emergency medical service provider, licensed or certified
80 under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, is immune from
81 civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

82 (a) complying with a life with dignity order in good faith; or

83 (b) providing life sustaining treatment to a person when a life with dignity order directs
84 that the life sustaining treatment be withheld or withdrawn.

85 (7) To the extent that the provisions of a life with dignity order described in this
86 section conflict with the provisions of an advance health care directive made under Section
87 [75-2a-107](#), the provisions of the life with dignity order take precedence.

88 (8) An adult, or a parent or guardian of a minor, may revoke a life with dignity order
89 by:

- 90 (a) orally informing emergency service personnel;
 - 91 (b) writing "void" across the form;
 - 92 (c) burning, tearing, or otherwise destroying or defacing:
 - 93 (i) the form; or
 - 94 (ii) a bracelet or other evidence of the life with dignity order;
 - 95 (d) asking another adult to take the action described in this Subsection (8) on the
 - 96 person's behalf;
 - 97 (e) signing or directing another adult to sign a written revocation on the person's
 - 98 behalf;
 - 99 (f) stating, in the presence of an adult witness, that the person wishes to revoke the
 - 100 order; or
 - 101 (g) completing a new life with dignity order.
- 102 (9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks
- 103 health care decision making capacity may only revoke a life with dignity order if the revocation
- 104 is consistent with the substituted judgment standard.
- 105 (b) Except as provided in Subsection (9)(c), a surrogate who has authority under this
- 106 section to sign a life with dignity order may revoke a life with dignity order, in accordance with
- 107 Subsection (9)(a), by:
- 108 (i) signing a written revocation of the life with dignity order; or
 - 109 (ii) completing and signing a new life with dignity order.
- 110 (c) A surrogate may not revoke a life with dignity order during the period of time
- 111 beginning when an emergency service provider is contacted for assistance, and ending when
- 112 the emergency ends.
- 113 (10) (a) The Department of Health shall [~~adopt~~] make rules, in accordance with Title
- 114 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
- 115 (i) create the forms and systems described in Subsection (5)(a)(i) in accordance with
 - 116 the provisions of this section; [~~and~~]
 - 117 (ii) designate a life with dignity order form as described in Subsection (5)(a)(ii); and
 - 118 [~~(ii)~~] (iii) develop uniform instructions for the form established in Section 75-2a-117.
- 119 (b) The Department of Health may [~~adopt~~] make rules, in accordance with Title 63G,
- 120 Chapter 3, Utah Administrative Rulemaking Act, to:

121 (i) designate health care professionals, in addition to those described in Subsection
122 (2)(b)(ii), who may prepare a life with dignity order[-]; and

123 (ii) designate an electronic registry system for life with dignity orders under Subsection
124 (5)(a)(ii).

125 (c) The Department of Health may assist others with training of health care
126 professionals regarding this chapter.

127 (11) A physician assistant may not prepare or sign a life with dignity order, unless the
128 physician assistant is permitted to prepare or sign the life with dignity order under the physician
129 assistant's delegation of services agreement, as defined in Section 58-70a-102.

130 (12) (a) Notwithstanding any other provision of this section:

131 (i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to
132 any signature required on the life with dignity order; and

133 (ii) a verbal confirmation satisfies the requirement for a signature from an individual
134 under Subsection (3)(b)(ii) or (iii), if:

135 (A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the
136 life with dignity order in person or electronically would require significant difficulty or
137 expense; and

138 (B) a licensed health care provider witnesses the verbal confirmation and signs the life
139 with dignity order attesting that the health care provider witnessed the verbal confirmation.

140 (b) The health care provider described in Subsection (12)(a)(ii)(B) may not be the same
141 individual who signs the life with dignity order under Subsection (3)(a).