



SPONSOR: Sen. Pinkney & Rep. Minor-Brown
Sen. Mantzavinos; Reps. Baumbach, Harris, K. Johnson,
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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 195

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE MEDICAL
ORDERS FOR SCOPE OF TREATMENT ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2503A, Title 16 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and redesignating accordingly:

3 § 2503A. Definitions.

4 For purposes of this chapter:

5 ~~(e)~~ (3) “Delaware Medical Orders for Scope of Treatment” ~~(DMOST)~~ or “DMOST” means a clinical process to
6 facilitate communication between health-care professionals and patients living with serious illness or frailty whose health-
7 care practitioner would not be surprised if they died within the next year or, if the patient lacks decision-making capacity,
8 the patient’s authorized representative. The process encourages shared, informed medical decision-making. The result is a
9 DMOST form, which contains portable medical orders that respect the patient’s goals for care in regard to the use of CPR
10 and other medical interventions. The DMOST form is applicable across health-care settings, is reviewable, and is
11 revocable.

12 (14) “Secretary” means the Secretary of the Department of Health and Social Services.

13 Section 2. Amend § 2505A, Title 16 of the Delaware Code by making deletions as shown by strike through and
14 insertions as shown by underline as follows:

15 § 2505A. Powers and duties of Department of Health and Social Services.

16 (a) ~~The Secretary of the Department of Health and Social Services shall be~~ is authorized to promulgate regulations
17 and develop protocols to fulfill the following responsibilities:

18 (1) Promulgation of a DMOST form and development of the process for completion, modification, and
19 revocation of the DMOST form including training requirements.

20 (2) Promotion of awareness ~~among~~ through outreach and education, including a website, to health-care
21 practitioners, health-care providers, emergency-care providers, and the general public ~~in this State~~ about the option to
22 complete a DMOST form.

23 (3) Training of emergency-care providers about the use and application of a DMOST form.
24 (4) Development of additional requirements for the completion of a DMOST form that may be applicable in
25 the case of a patient with mental illness or a developmental disability in consultation with organizations that represent
26 individuals with mental illness ~~and or~~ development disabilities, respectively.

27 (5) Ongoing evaluation of the design and use of DMOST ~~forms through the use of such data as the~~
28 ~~Department determines reasonably necessary for that purpose.~~ forms.

29 (6) Collect data on the use of DMOST forms, including impact on different groups of stakeholders.

30 (b) ~~The Secretary of the Department of Health and Social Services shall be authorized to seek the imposition of In~~
31 addition to the penalties under § 2517A of this title, the Department may impose civil monetary penalties under this
32 chapter.

33 (c) The Department shall maintain a DMOST program to effectively implement this chapter. In addition to the
34 responsibilities under subsection (a) of this section, the DMOST program must do all of the following:

35 (1) Work with the Delaware Health Information Network to maintain the electronic registry under § 2507A of
36 this title.

37 (2) Staff and work with the DMOST Steering Committee to evaluate and improve the use of DMOST forms.

38 (3) Liaison with the National POLST Coalition regarding ongoing best practices and research.

39 Section 3. Amend § 2507A, Title 16 of the Delaware Code by making deletions as shown by strike through and
40 insertions as shown by underline as follows:

41 § 2507A. Delaware Health Information Network.

42 The Delaware Health Information Network (DHIN) ~~is authorized to create~~ shall maintain an electronic registry to
43 maintain and store executed DMOST forms and make them available to emergency-care providers, health-care ~~providers~~
44 providers, and health-care institutions.

45 Section 4. Amend Chapter 25A, Title 16 of the Delaware Code by making deletions as shown by strike through
46 and insertions as shown by underline as follows:

47 § 2521A. DMOST Steering Committee

48 (a) The DMOST Steering Committee (Committee) is established to support the implementation of the DMOST
49 program and make recommendations regarding the implementation of this chapter.

50 (b) The Committee is comprised of the following members, or a designee selected by the member serving by
51 virtue of position:

52 (1) The President, Delaware Quality of Life Coalition, who serves as chair.

- 53 (2) The Secretary.
- 54 (3) Chief Executive Officer, Delaware Health Information Network.
- 55 (4) The Delaware representative to the National POLST Coalition.
- 56 (5) The Long-Term Care Ombudsperson under Subchapter VI of Chapter 11 of this title.
- 57 (6) The Executive Director, Delaware State Fire Prevention Commission.
- 58 (7) The Chief Executive Officer, Delaware Healthcare Association.
- 59 (8) The Executive Director, Delaware Health Care Facilities Association.
- 60 (9) The Chair, Elder Law Section, Delaware State Bar Association.
- 61 (10) One member representing a health care insurance provider, appointed by the Secretary.
- 62 (11) One member of the public, appointed by the Secretary.
- 63 (c)(1) A quorum of the Committee is a majority of its current members. Official action by the Committee,
64 including making findings and recommendations, requires the approval of a quorum of the Committee.
- 65 (2) The Committee shall meet no less than 1 time every 4 months.
- 66 (3) The Committee shall adopt rules or procedures governing the work of the Committee.
- 67 (4) A member of the Committee with the ability to designate another individual to attend a Committee
68 meeting must provide the designation in writing to the chair. An individual attending a meeting for a member as a
69 designee has the same duties and rights as the member.
- 70 (5) The chair of the Committee may invite individuals with relevant expertise to participate in Committee
71 discussions.
- 72 (d) The Committee shall produce an annual report, published on the DMOST Program website, that includes all of
73 the following:
- 74 (1) Data regarding all of the following:
- 75 a. The number of DMOST forms in the electronic registry.
- 76 b. How often the electronic registry is consulted by health-care providers.
- 77 c. Use of DMOST forms by emergency-care providers.
- 78 (2) Information about trainings provided to health-care practitioners, health-care providers, and emergency-
79 care providers.
- 80 (3) Public education and outreach efforts.
- 81 (4) Current challenges and recommendations to improve the DMOST Program and the use of DMOST forms.

SYNOPSIS

The Delaware Medical Orders for Scope of Treatment “DMOST” was enacted in 2016 under HB 64 (148th). The DMOST form allows Delawareans to plan ahead for health-care decisions, express their wishes in writing, and both enable and obligate health care professionals to act in accordance with a patient’s expressed preferences. A DMOST form is different than an Advance Health-Care Directive because a DMOST form contains portable medical orders that respect the patient’s goals for care in regard to the use of CPR and other medical interventions.

Currently, DMOST is being underutilized, despite efforts by advocates and the creation of a statewide, electronic registry for DMOST forms hosted by the Delaware Health Information Network (DHIN). This Act will improve the utilization of DMOST forms by health-care practitioners, health-care providers, emergency-care providers, and patients and their families by creating a DMOST Program at the Department of Health and Social Services (DHSS). This Act expands upon DHSS’ current responsibilities under DMOST by doing all of the following:

1. Providing ongoing education and training for health-care practitioners, health-care providers, emergency-care providers, and patients and their families.
2. Maintaining a website for information and education about DMOST.
3. Working with the DHIN to maintain the electronic registry.
4. Coordinating with the National POLST Collaborative regarding current best practices and research. (POLST, which stands for Physician Orders for Life-Sustaining Treatment, was the name given to the first tool developed for honoring patients’ wishes for end of life treatment in 1991.)
5. Creating a DMOST Steering Committee, consisting of a broad group of stakeholders, to evaluate and improve the DMOST Program and the use of DMOST forms. The DMOST Steering Committee must produce an annual report containing data about the use of DMOST forms, trainings, public education and outreach, and current challenges and recommendations to improve the DMOST Program.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Pinkney