

SECOND REGULAR SESSION

# HOUSE BILL NO. 1506

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BRUNS (Sponsor) AND PAGE (Co-sponsor).

Read 1st time January 24, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4730L.011

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### AN ACT

To amend chapter 190, RSMo, by adding thereto twelve new sections relating to emergency services.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 190, RSMo, is amended by adding thereto twelve new sections, to  
2 be known as sections 190.600, 190.603, 190.606, 190.609, 190.612, 190.615, 190.618, 190.621,  
3 190.624, 190.627, 190.630, and 190.633, to read as follows:

**190.600. 1. Sections 190.600 to 190.633 shall be known and may be cited as the**  
2 **"Missouri Physician Orders for Scope of Treatment Act".**

3 **2. As used in sections 190.600 to 190.633, the following terms shall mean:**

4 **(1) "Attending physician", a physician licensed under chapter 334, RSMo, selected**  
5 **by or assigned to a patient who has primary responsibility for treatment and care of the**  
6 **patient. If more than one physician shares such responsibility for the treatment and care**  
7 **of a patient, any one of such physicians may act as the attending physician;**

8 **(2) "Department", the department of health and senior services;**

9 **(3) "Emergency medical services personnel", an emergency medical technician,**  
10 **emergency medical technician-basic, emergency medical technician-intermediate,**  
11 **emergency medical technician-paramedic, first responder, or other health care provider**  
12 **of emergency medical services;**

13 **(4) "Health care facility", a facility, agency, or other entity commonly known by**  
14 **a wide variety of titles, including but not limited to a hospital, psychiatric hospital, medical**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 center, ambulatory surgical center, physicians' office and clinic, extended care facility  
16 operated in connection with a hospital, skilled nursing facility, intermediate care facility,  
17 residential care facility I or II, hospital extended care facility operated in connection with  
18 a rehabilitation center, hospice, home health agency, and any other facility or service  
19 established to administer health care in its ordinary course of business or practice;

20 (5) "Health care provider", any licensed physician, dentist, registered professional  
21 nurse, licensed practical nurse, physician's assistant, paramedic, chiropractor, emergency  
22 medical services, psychologist, social worker, professional counselor, certified nurse  
23 assistant, or other person providing medical, dental, nursing, psychological, or other health  
24 care services under a license, registration, or certification issued by this state of any kind  
25 or in the employ of or under contract with a health care facility;

26 (6) "Incapacitated", a person who is wholly or partially incapacitated, as defined  
27 in section 475.010, RSMo, or a similar law in the jurisdiction of the person whose capacity  
28 is in question;

29 (7) "Outside of a hospital", any setting where a patient may be located other than  
30 in a hospital;

31 (8) "Palliative care", any form of medical care or treatment, including comfort  
32 measures, to reduce or slow the progress of the severity of symptoms of a disease or  
33 condition rather than care or treatment to cure the disease or condition;

34 (9) "Patient's representative":

35 (a) An attorney-in-fact designated in a durable power of attorney for health care  
36 for a patient determined to be incapacitated under the durable power of attorney for  
37 health care act in chapter 404, RSMo;

38 (b) A guardian or limited guardian appointed under chapter 475, RSMo, to have  
39 responsibility for an incapacitated patient;

40 (c) Any other person appointed in an order of a court of competent jurisdiction;  
41 or

42 (d) Absent any person listed in paragraphs (a) to (c) of this subdivision, the  
43 following family members in the order of priority: the spouse, an adult son or daughter,  
44 either parent, or an adult brother or sister;

45 (10) "POST" or "physician orders for scope of treatment", physician orders for  
46 scope of treatment for a patient inside of a hospital or outside of a hospital that include a  
47 patient's life-sustaining wishes;

48 (11) "POST personal identifier", a bracelet, necklace, pin, or other item on a  
49 patient's person which indicates that a do-not-resuscitate order has been authorized or

50 issued by the attending physician for the patient and which meets the specifications of the  
51 department;

52 (12) "Trauma", blunt or penetrating bodily injuries from impact which occur in  
53 situations including but not limited to motor vehicle collisions, mass casualty incidents, and  
54 industrial accidents.

190.603. 1. A patient or patient's representative may request that the attending  
2 physician issue a POST form. An attending physician may issue a POST form prescribing  
3 the physician orders on the scope of treatment which includes a patient's life-sustaining  
4 treatment wishes.

5 2. If such an order is issued, the attending physician shall use the POST form  
6 developed and required under sections 190.600 to 190.633; except that, while a patient is  
7 in a health care facility, the physician may use a form developed under the policies and  
8 procedures of the facility. The attending physician shall include the order in the patient's  
9 medical record and provide a copy to the patient or the patient's representative.

10 3. A POST form shall be maintained as the first page of a patient's medical record  
11 in a health care facility unless otherwise specified in the health care facility's policies and  
12 procedures.

13 4. A POST form shall be transferred with the patient when the patient is  
14 transferred from one health care facility to another health care facility. If the patient is  
15 transferred outside of a hospital, the POST form shall be provided to any other facility,  
16 person, or agency responsible for the health care of the patient or to the patient's  
17 representative.

18 5. In accordance with or in addition to a POST form, an attending physician may  
19 issue orders for palliative care. The patient or patient's representative may seek palliative  
20 care in accordance with or in addition to a POST form.

21 6. If necessary for continuity of care or if the original completed POST form is lost  
22 or misplaced, the POST form may be issued in duplicate originals executed by the  
23 attending physician and the patient or the patient's representative.

190.606. 1. POST forms shall be standardized forms used to reflect orders by an  
2 attending physician for medical treatment of a patient in accordance with such patient's  
3 wishes or, if the patient's wishes are not reasonably known and cannot be ascertained with  
4 reasonable diligence, in accordance with such patient's values consistent with state law and  
5 the best interests of the patient.

6 2. The POST forms shall be issued on bright pink-colored paper to facilitate  
7 recognition by emergency medical services personnel and other health care providers and

8 shall be designated to provide the information regarding the care of the patient, including  
9 but not limited to the following:

10 (1) The orders of an attending physician regarding cardiopulmonary resuscitation  
11 and the basis for the orders, including palliative care if ordered;

12 (2) The signature of the attending physician;

13 (3) Whether the patient has completed an advanced directive, living will, or durable  
14 power of attorney for health care appointing an agent to make health care decisions, has  
15 had a guardian appointed, or otherwise has a patient representative;

16 (4) The signature of the patient or the patient's representative acknowledging  
17 agreement with the orders of the attending physician or a written certification by the  
18 physician that the treatment options were discussed with and consented to by the patient  
19 or the patient's representative;

20 (5) The date, location, and outcome of any review of the POST form.

190.609. 1. If a patient with a POST form is transferred from one health care  
2 facility to another health care facility, the transferring health care facility shall  
3 communicate the existence of the POST form to the receiving health care facility prior to  
4 the transfer. The POST form shall accompany the patient to the receiving health care  
5 facility and shall remain in effect unless otherwise determined by an attending physician  
6 after review in accordance with subsection 2 of this section. The POST form shall be  
7 maintained as the first page of the patient's transfer records unless otherwise specified in  
8 the health care facility's policies and procedures.

9 2. Upon admittance to a receiving health care facility, the patient's POST form  
10 shall be reviewed by the attending physician and one of the following shall occur:

11 (1) The POST form including the POST personal identifier, if applicable, shall be  
12 continued without change;

13 (2) The POST form and POST personal identifier, if applicable, shall be voided and  
14 a new POST form issued; or

15 (3) The POST form and the POST personal identifier, if applicable, shall be voided  
16 without a new POST form and POST personal identifier being issued.

190.612. If the attending physician issues a POST form which is placed in the  
2 patient's record, the attending physician may also authorize or issue a POST personal  
3 identifier. No POST personal identifier shall be authorized or issued unless a POST form  
4 is placed in the patient's record and provided to the patient or the patient's representative.  
5 If the patient or the patient's representative requests the authorization or issuance of a  
6 POST personal identifier by the attending physician and the attending physician has issued  
7 a POST form, the attending physician shall issue or authorize a POST personal identifier.

190.615. 1. On or before December 31, 2006, the department shall develop, implement, and promulgate rules to require the use of standardized POST forms and POST personal identifiers as necessary to implement such forms and identifiers on a statewide basis and shall promulgate any other rules necessary to implement sections 190.600 to 190.633, including but not limited to the following:

(1) Specifications for standardized POST forms to be issued on bright pink-colored paper to facilitate recognition by emergency medical services and other health care providers;

(2) Specifications for standardized POST personal identifiers, including the patient's name, date of birth in numerical form, and the words "do not attempt to resuscitate" if applicable.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

190.618. 1. Standardized POST forms and POST personal identifiers shall alert any emergency medical services and health care providers of the existence of physician orders for scope of treatment for a patient.

2. Except as otherwise provided in section 190.627, emergency medical services shall comply with POST forms and POST personal identifiers without attempting cardiopulmonary resuscitation of a patient when notified of a POST form ordering that resuscitation not be attempted or POST personal identifier, or both, issued for such patient under sections 190.600 to 190.633, and any rules promulgated thereunder.

3. Emergency medical services personnel shall comply with any palliative care instructions contained in the POST form or under the service's protocol.

190.621. 1. A POST form or POST personal identifier shall be deemed revoked at any time the patient or the patient's representative as designated on the POST form or POST personal identifier, or both, is able to communicate in any manner his or her intent to revoke the orders.

2. A patient serviced by or in a health care facility or the patient's representative may revoke a previous request for or consent to physician orders for scope of treatment

7 at any time by informing a physician or any other health care provider on staff of the  
8 health care facility.

9       **3. Any health care provider of a health care facility who is informed of or provided**  
10 **with a revocation under this section shall immediately notify the attending physician of**  
11 **such revocation.**

12       **4. A patient residing outside of a health care facility or the patient's representative**  
13 **may revoke the physician orders for scope of treatment at any time by destroying the**  
14 **POST form and removing the POST personal identifier. The patient or the patient's**  
15 **representative shall be responsible for notifying the attending physician of such revocation.**

16       **5. An attending physician who is informed of or provided with a revocation under**  
17 **this section shall immediately cancel such patient's physician orders for scope of treatment**  
18 **and, if applicable, notify the professional staff of the health care facility.**

**190.624. Emergency medical services shall document compliance or noncompliance**  
2 **with a POST form or POST personal identifier, or both, and, if applicable, the reasons for**  
3 **not complying with the order, including evidence that the order was revoked or**  
4 **uncertainty regarding the validity or applicability of the order.**

**190.627. Notwithstanding the existence of a POST form with an order not to**  
2 **attempt resuscitation or a POST personal identifier, or both, the emergency medical**  
3 **services personnel shall attempt to resuscitate any patient who experiences cardiac or**  
4 **respiratory arrest as a result of trauma at the site of the trauma.**

**190.630. 1. No person or entity shall be held civilly or criminally liable for good**  
2 **faith compliance with and reliance upon the orders contained in a POST form or POST**  
3 **personal identifier as authorized by sections 190.600 to 190.633, and any rules promulgated**  
4 **thereunder.**

5       **2. No person or entity shall be held civilly or criminally liable for providing**  
6 **cardiopulmonary resuscitation or other life-sustaining treatment to a patient for whom a**  
7 **POST form or POST personal identifier has been issued if such person or entity or such**  
8 **person's or entity's staff or agents:**

9           **(1) Reasonably and in good faith were not aware of the existence of a POST form**  
10 **or POST personal identifier, or both;**

11           **(2) Reasonably and in good faith believed that consent to the POST form or POST**  
12 **personal identifier, or both, had been revoked or canceled; or**

13           **(3) Reasonably and in good faith believed that the physician's order contained on**  
14 **the POST form or the physician's authorization or issuance of the POST personal**  
15 **identifier, or both, had been revoked or canceled.**

**190.633. If an attending physician refuses to issue a POST form at a patient's  
2 request or refuses to comply with orders previously issued in a POST form, such attending  
3 physician shall take reasonable steps to promptly advise the patient or the patient's  
4 representative that the physician is unwilling to effectuate the order. The attending  
5 physician shall permit and facilitate the patient or the patient's representative in obtaining  
6 another attending physician.**

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