



Testimony

ESHB 2494 – Health Care Directives Senate Judiciary Committee

February 26, 2008

Chairperson Kline and members of the Committee, my name is Donna Christensen and I am testifying on behalf of the Washington State Catholic Conference (WSCC), which represents the Catholic bishops of Washington State on public policy issues.

The Catholic Conference has been involved in end-of-life issues for many years – even prior to the enactment of the Natural Death Act in 1979. Sr. Sharon Park, the Executive Director of the Conference Catholic, worked on revisions to the Act in the early 1990s. She was also involved in the creation of the POLST form. WSCC does not oppose the intent of this legislation, however we are concerned about the way the bill is written.

We would like to draw your attention to three areas:

1. There is confusion in the general public about whether the POLST form applies in a terminal condition or whether the form covers other emergency situations. There needs to be a distinction in the form between a terminal condition and an emergent condition.

Example: A Sister who resides in a nursing home was taken to the emergency room where she was diagnosed with pneumonia. The nursing home had sent, with the sister, her POLST form on which she had indicated that she did not wish to receive antibiotics. The ER physician, trying to honor her wishes, was not going to administer antibiotics. Sr. Sharon, and other members of her community, indicated to the doctor that she did want antibiotics. The ER physician said that he would call the ill sister's regular doctor. After the two doctors talked, the sister was given antibiotics. Today, four year's later, she is alive and doing well. The confusion arose because when the sister signed the POLST form she believed that it applied only in a terminal condition.

This is just one example of the confusion caused by the present POLST form. This bill does not clarify this issue.

2. Our second concern deals with the expansion of the people eligible to carry out the wishes of the person who has signed the form. The bill appears to broaden the list of people who can carry out the directives indicated on the POLST form. The list of people includes aides who assist in nursing homes and adult family homes. Although the bill does indicate that "providers," which includes aides, have to conform to their scope of practice, it is unclear in the law what is the scope of practice of an aide. If they do not have a scope of practice, are they allowed to carry out the orders or are they prohibited? If it is unclear to us, I wonder

how it can be clear to those who are trying to complete the form to ensure that their wishes are honored.

3. We are also concerned that the language is not well-written. In Section 2, sub 3, it reads that, "Any provider who, in good faith, provides, withholds, or withdraws life-sustaining treatment, emergency treatment including "resuscitate" or "do not resuscitate," or related comfort care from a person in accordance with the directions stated on a medical order form developed and endorsed by the department of health under RCW 43.70.480 and signed in accordance with RCW 43.70.480(3) shall be immune from civil or criminal liability, including professional conduct sanctions."

I am sure that is not the intention of the bill, but the way it is written it appears to allow withholding comfort care. The intent and the way it is written are not congruent.

In conclusion, the public that policy makers are attempting to assist will find that there is such confusion that it would be difficult to ensure that their wishes can be met. We would recommend spending more time working out the problems from the patient's perspective and include organizations such as resident councils, long-term care ombudsman, and other consumers.