MOLST | MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT

General Instructions for the Legal Requirements Checklists for Adult Patients and Glossary

The MOLST form is a medical order form that tells others the patient's medical orders for life-sustaining treatment. All health care professionals must follow these medical orders as the patient moves from one location to another, unless a physician, nurse practitioner, or physician assistant examines the patient, reviews the orders, and changes them.

MOLST is generally for patients with serious health conditions. Physicians, nurse practitioners, and physician assistants should consider consulting with the patient about completing a MOLST form if the patient:

- Wants to avoid or receive life-sustaining treatment.
- Resides in a long-term care facility or requires long-term care services.
- Might die within the next year.

These instructions and checklists are intended to assist health care professionals in completing the MOLST form with adult patients and/or the patients' authorized health care decision-makers. They are NOT intended for use with minor patients, or patients with developmental disabilities who lack medical decision-making capacity, or patients with mental illness in a mental hygiene facility.

General Instructions

The MOLST form must be completed based on the patient's current medical condition, values, wishes, and these MOLST instructions. Completion of the MOLST begins with a conversation or a series of conversations between the patient, the health care agent or the surrogate, and a qualified, trained health care professional that defines the patient's goals for care, reviews possible treatment options on the entire MOLST form, and ensures shared, informed medical decision-making. The conversation should be documented in the medical record. The patient or other medical decision-maker must consent to the MOLST orders, with the exception of patients covered by Checklist #4 (for adult hospital, hospice or nursing home patients without medical decision-making capacity who do not have a health care proxy or a Public Health Law surrogate).

Although the conversation(s) about goals and treatment options may be initiated by any qualified and trained health care professional, a licensed physician, nurse practitioner, or physician assistant must always, at a minimum: (i) confer with the patient and/or the patient's health care agent or surrogate about the patient's diagnosis, prognosis, goals for care, treatment preferences, and consent by the appropriate decision-maker, and (ii) sign the orders derived from that discussion. If the physician is licensed in a border state, the physician must insert the abbreviation for the state in which he/she is licensed, along with the license number.

Completion of both the first and second pages of the MOLST form is strongly encouraged. However, the patient or decision-maker (i.e., a health care agent or surrogate) may not be physically or emotionally prepared to reach a decision concerning every treatment option on the form in a single meeting. Completion of only page 1 of the MOLST form (concerning CPR/DNR) is permissible, and page 2 (Section E) may be completed at a later time. If a patient or decision-maker can reach a decision on one or more treatment options, but not others, on page 2, the physician, nurse practitioner, or physician assistant may cross out the portion of the form with the treatment option(s)

for which there is no decision and write “Decision Deferred” next to those treatment option(s). If the patient or decision-maker reaches a decision concerning that treatment option(s) at a later time, a new form must be completed and signed by a physician, nurse practitioner, or physician assistant, indicating all of the patient’s or decision-maker’s decisions.

Verbal orders are acceptable with a follow-up signature by a NYS licensed physician, nurse practitioner, or physician assistant or a border state physician in accordance with facility/community policy. Verbal orders must be authenticated under Medicare and Medicaid hospital conditions of participation.

Printing the form on bright “pulsar” pink, heavy stock paper is strongly encouraged. When EMS personnel respond to an emergency call in the community, they are trained to check whether the patient has a pink MOLST form before initiating life-sustaining treatment. They might not notice a MOLST form on plain white paper. However, white MOLST forms and photocopies, faxes, or electronic representations of the original, signed MOLST are legal and valid.

MOLST orders completed in accordance with New York law remain valid when the patient transitions from one health care setting to another. Non-hospital DNR orders must be reviewed by a physician, nurse practitioner, or physician assistant at least every 90 days. In addition, all MOLST orders must be reviewed consistent with facility policy and when the patient transitions between care settings, when there is a major change in health status, and when the patient or other health care decision-maker changes his/her mind about treatment.

Decision-making standards, procedures and statutory witness requirements for decisions to withhold or withdraw life-sustaining treatment, including DNR, vary depending on who makes the decision and where the decision is made. Accordingly, there are different checklists for different types of decision-makers and settings.

Please note: There are 5 different checklists for adult patients:

Checklist #1 - Adult patients with medical decision-making capacity (any setting)

Checklist #2 - Adult patients without medical decision-making capacity who have a health care proxy (any setting)

Checklist #3 - Adult hospital, hospice or nursing home patients without medical decision-making capacity who do not have a health care proxy, and decision-maker is Public Health Law Surrogate (surrogate selected from the surrogate list)

Checklist #4 - Adult hospital, hospice or nursing home patients without medical decision-making capacity who do not have a health care proxy and for whom no surrogate from the list is available

Checklist #5 - Adult patients without medical decision-making capacity who do not have a health care proxy, and the MOLST form is being completed in the community

Choose the correct checklist. Then, complete the clinical steps and legal requirements based on who makes the decision and the setting.

The checklists can be found on the Department of Health’s website at:
https://www.health.ny.gov/professionals/patients/patient_rights/molst/.

Review and Renewal of MOLST Orders

The physician, nurse practitioner, or physician assistant must review the MOLST form from time to time as the law requires, and also:

- If the patient moves from one location to another to receive care; or
- If the patient has a major change in health status (for better or worse); or
- If the patient or other decision-maker changes his or her mind about treatment.

If the patient lacks capacity to make health care decisions, the Health Care Agent or Surrogate may request a change in the MOLST and must be consulted about any changes recommended by the patient's health care provider when any of the above circumstances arise.

DNR/Allow Natural Death orders: Public Health Law requires the physician, nurse practitioner, or physician assistant to review non-hospital DNR orders and record the review at least **every 90 Days**. In hospitals and nursing homes, MOLST orders must be reviewed regularly in accordance with facility policies.

Life-Sustaining Treatment orders: The patient's medical condition, prognosis, values, wishes and goals for his/her care may change over time. The physician, nurse practitioner, or physician assistant should review these orders at the same time as DNR/Allow Natural Death orders are reviewed and the review is recorded.

Review all medical orders in Sections A through E of the MOLST form.

Document the outcome of the review in Section F

- If there is no change in the patient's health status, medical decision-making capacity or preferences, sign, date and check the "No Change" box.
- If there is a substantial change in patient's health status, medical decision-making capacity, goals for care or preferences that results in a change in MOLST orders, write "VOID" in large letters on pages 1 and 2, and complete a new form, in accordance with NYS Public Health Law decision-making standards and procedures. Check box marked "FORM VOIDED, new form completed." (RETAIN voided MOLST form in chart, medical record, or electronic registry as required by law.)
- If this form is voided and no new form is completed, full treatment and resuscitation will be provided, unless a different decision is made by the patient, surrogate or health care agent. Write "VOID" in large letters on pages 1 and 2 and check box marked "FORM VOIDED, no new form." (RETAIN voided MOLST form in chart, medical record, or electronic registry as required by law.)

For more information about the MOLST Program, view the Department of Health's website at **https://www.health.ny.gov/professionals/patients/patient_rights/molst/** and the Compassion and Support website, Professionals section and the MOLST Training Center at www.CompassionAndSupport.org.

Glossary

"Adult" means any person 18 or older or any person who has married.

"Clear and convincing evidence" is evidence that the patient held a firm and settled commitment to the withholding of life-sustaining treatment in the event of circumstances like the patient's current medical condition. The evidence may be in a written living will, and/or previous oral statements indicating the patient's wishes, considering the circumstances under which such statements were made and to whom. In order to decide whether the evidence of the patient's wishes is clear and convincing, consideration should be given to:

- whether the statements were general or specific;
- whether the statements were about specific circumstances (for example, terminal illness, persistent vegetative state) that are similar to the patient's current medical condition;
- the intensity, frequency, consistency, and seriousness of such statements;
- whether the statements tended to show that the patient held a firm and settled commitment to certain treatment decisions under circumstances like those presented;
- whether the strength and durability of the patient's religious and moral beliefs make a more recent change of heart unlikely; and
- whether the statements were made to one person only or to more than one person close to the patient.

"Close friend" is any person 18 or older who is a friend or relative of the patient. This person must have maintained regular contact with the patient; be familiar with the patient's activities, health, and religious or moral beliefs; and present a signed statement to that effect to the attending doctor, nurse practitioner, or physician assistant.

"Community" means not in a hospital, hospice or nursing home.

"Domestic partner" means a person who:

- has entered into a formal domestic partnership recognized by a local, state or national government; or
- has registered as a domestic partner with a registry maintained by the government or an employer; or
- is covered as a domestic partner under the same employment benefits or health insurance; or
- shares a mutual intent to be a domestic partner with the patient, considering all the facts and circumstances, such as:
    - They live together.
    - They depend on each other for support.
    - They share ownership (or a lease) of their home or other property.
    - They share income or expenses.
    - They are raising children together.
    - They plan on getting married or becoming formal domestic partners.
    - They have been together for a long time.

The following may not be a "domestic partner:"

- A parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the patient or the patient's spouse.
- A person who is younger than 18.

"Health or social service practitioner" means a registered professional nurse, nurse practitioner, physician, physician assistant, psychologist or licensed clinical social worker, licensed or certified pursuant to the Education Law and acting within his or her scope of practice. A health or social service practitioner who determines that a patient lacks medical decision-making capacity must be competent to do so, based on his/her experience and training.

“Hospital” means a general hospital as defined in subdivision ten of section twenty-eight hundred one of the Public Health Law, excluding a ward, wing, unit or other part of a general hospital operated for the purpose of providing services for persons with mental illness pursuant to an operating certificate issued by the New York State Office of Mental Health; or a hospice as defined in Public Health Law Article 40, without regard to where the hospice care is provided.

“Life-sustaining treatment” means any medical treatment or procedure without which the patient will die within a relatively short time, as determined by an attending physician, nurse practitioner, or physician assistant to a reasonable degree of medical certainty. Cardiopulmonary resuscitation (CPR) is presumed to be life-sustaining treatment without the necessity of a determination by an attending physician, nurse practitioner, or physician assistant.

“Mental hygiene facility” means, for purposes of these checklists, a facility operated or licensed by the Office of Mental Health (OMH) or the Office for People With Developmental Disabilities (OPWDD) as defined in subdivision six of section 1.03 of the Mental Hygiene Law; i.e., any place in which services for the mentally disabled are provided and includes but is not limited to a psychiatric center, developmental center, institute, clinic, ward, institution or building, except that in the case of a hospital as defined in Article 28 of the Public Health Law it shall mean only a ward, wing, unit, or part thereof which is operated for the purpose of providing services for the mentally disabled. A mental hygiene facility also includes a community residence operated by or subject to licensure by OMH or OPWDD (MHL §1.03(28)).

“Nurse practitioner” means a licensed nurse practitioner.

“Nursing home” means a residential health care facility as defined in subdivision three of section twenty-eight hundred one of the Public Health Law.

“Physician” means a licensed physician.

“Physician assistant” means a licensed physician assistant.

“Qualified psychiatrist” means a physician licensed to practice medicine in New York State, who is a diplomate or eligible to be certified by the American Board of Psychiatry and Neurology or who is certified by the American Osteopathic Board of Neurology and Psychiatry or is eligible to be certified by that board.

“Reasonably available” means that a person to be contacted, can be contacted with diligent efforts by an attending physician, nurse practitioner, or physician assistant, another person acting on behalf of an attending physician, nurse practitioner, or physician assistant, or the hospital or nursing home.