

MOLST | MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT

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

Medical Orders for Life-Sustaining Treatment (MOLST) form is generally for patients with advanced illness who require long-term care services and/or who might die within 1-2 years. The MOLST may also be used for individuals who wish to avoid and/or receive specific life-sustaining treatments. All health care professionals must follow these medical orders, even when a patient moves from one care setting to another.

These instructions and accompanying 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 must be completed based on the patient's current medical condition, values, and wishes. Completion of the MOLST begins with a conversation or a series of conversations between the patient, the patient's health care agent or surrogate, if appropriate, and a qualified, trained health care professional. These conversations should include defining the patient's goals for care, reviewing possible treatment options, and ensuring shared, informed medical decision-making. The conversations should be documented in the medical record.

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 (NP), or physician assistant (PA) 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 they are licensed, along with the license number. The patient or other medical decision-maker must consent to the MOLST orders, with the exception of patients in a hospital, hospice, or nursing home who do not have medical decision-making capacity and who do not have a health care proxy or surrogate (see Checklist #4 below).

The MOLST form should be printed on bright "pulsar" pink paper. When Emergency Medical Services (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 Legal Requirements Checklists for Adult Patients

In addition to the MOLST form, the Department has developed legal requirements checklists. The checklists are intended to assist providers in satisfying the legal requirements associated with decisions concerning life-sustaining treatment for all other patients. They are guidance documents, and the use of these checklists is not mandatory, although strongly encouraged. Providers that do not use the provided checklists must use an alternative method for assuring that they adhere strictly to all legal requirements for completing the form, including requirements related to securing informed consent to the medical orders from the proper person, making the clinical judgments necessary to

support orders withholding or withdrawing life sustaining treatment and, where applicable, securing ethics committee approval and witnesses to the consent.

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, checklists #1 - 5 are NOT intended for use by those patients with developmental disabilities who lack medical decision-making capacity and do not have a health care proxy.

The Office for Persons With Development Disabilities (OPWDD) has created its own checklist for patients with developmental disabilities who lack medical decision-making capacity and who do not have a health care proxy, which must always be attached to the MOLST form and can be found here: <https://opwdd.ny.gov/providers/health-care-decisions>.

Please note, there are 6 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

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 do not have a developmental disability, and the MOLST form is being completed in the community

Checklist #6 OPWDD Checklist – Adult patients with a developmental disability who do not have medical decision-making capacity and do not have a health care proxy

Choose the correct checklist and complete the clinical steps and legal requirements based on who makes the decision and the setting. All the checklists can be found on the Department of Health's website at: https://www.health.ny.gov/professionals/patients/patient_rights/molst/.

Completing the MOLST

Completion of the entire MOLST form is strongly encouraged. If treatment decisions are not specified and left blank on the MOLST or if the decision is deferred, patients and decision-makers should be made aware that those treatments will then be provided in full to the patient as necessary. Under Section F of the form, if a decision has not been made, the physician, NP, or PA should choose the option "Determine use or limitation if need arises". If the patient or decision-maker reaches a decision concerning the treatment option(s) at a later time, a new form must be completed and signed by a physician, NP, or PA.

Section A Patient Information

Complete Section A with the patient's information. If the form is being filled out electronically using the

eMOLST system, the eMOLST system will automatically generate an eMOLST number. If the MOLST is being prepared on paper, that space may be left blank.

Any advance directives known to have been completed by the patient should be noted in the space provided on the MOLST. Documentation of an Oral Advance Directive should only be checked when the patient and/or the health care agent or surrogate lacks the ability to sign (e.g., lives out of state or has a physical impairment impeding their ability) and has verbally communicated to the health care professional the patient's wishes for care. Documentation of this conversation should be made in the patient's medical record. If the patient has not completed an advance directive, the health care provider should encourage the patient to complete one so that they may communicate their goals for care or designate someone to make decisions on their behalf if the patient loses their ability to make medical decisions.

Section B Resuscitation Instructions When the Patient Has No Pulse and/or Is Not Breathing

Following a discussion with the health care provider on the risks and benefits of both cardiopulmonary resuscitation (CPR) and a Do Not Resuscitate (DNR) Order, the patient and/or health care agent or surrogate should make an informed decision on a preferred course of treatment if the patient's heart and/or breathing were to stop.

CPR attempts to prolong life when the heart stops or when breathing stops. It involves placing a tube down the throat (intubation) to assist with breathing and forceful pressure or compressions on the chest to try to restart the heart. It may include electric shock (defibrillation) to restart the heart. **Note:** CPR may include all or some of these interventions to restart the heart or breathing when either stops.

DNR means do not begin CPR, as defined above, to make the heart or breathing start again if either stops.

Section C Orders for Life-Sustaining Treatment When the Patient Has a Pulse and is Breathing

Respiratory Support: Noninvasive Ventilation and/or Intubation and Mechanical Ventilation

Only one option should be checked on the MOLST.

Intubation and long-term mechanical ventilation: When a tube is placed down a patient's throat to assist with breathing. The tube is connected to either an electric machine or a hand-held pump that forces air into the lungs. Long-term ventilation will continue as long as it is medically needed.

A trial of noninvasive ventilation and/or intubation and mechanical ventilation: When a patient agrees to start with a trial of non-invasive ventilation and if it fails, the patient will accept a trial of intubation. Non-invasive ventilation is when a face mask or a nasal mask is placed on the patient and air flows through the mask and is breathed in by the patient. Based on the patient's clinical status, the physician will choose to treat with the less invasive measure first.

A trial period is a period to be determined by the patient and/or their health care agent or surrogate and the physician, NP, or PA. A trial period may be initiated to assist the patient with breathing during a recovery period (e.g., following a stroke) or to identify if artificial breathing will improve the patient's condition. A trial period is unique to each patient and will be determined by the patient and/or their health care agent or surrogate and the physician, NP, or PA.

A trial of non-invasive ventilation only; if fails, Do Not Intubate: When a patient wants to start with a trial of non-invasive ventilation, but if it fails, the patient does not want a trial of intubation.

Do Not Intubate (DNI) and Do Not Use Noninvasive Ventilation: When a patient does not want to use either a tube and/or a mask to receive respiratory support with a ventilation. This option should not be checked if full CPR is checked in Section B.

Future Hospitalization/Transfer

Only one option should be checked on the MOLST.

Health care providers should consult the patient's health care proxy or living will if one has been completed, as necessary. **Note:** Patients have the right to refuse hospitalization, regardless of what is indicated on the MOLST.

Section D Consent for Sections B and C

If the patient retains decision-making capacity, the patient should sign the MOLST. If the patient does not have decision-making capacity and the patient's health care agent or surrogate is making decisions on the patient's behalf, the health care agent or surrogate should sign the MOLST. **The signature of the individual signing the form and the printed name of the decision-maker should always be the same.**

At least two witnesses are required to witness the MOLST being signed by the physician, NP, or PA and the patient, or the patient's health care agent or surrogate. A witness can be anyone over the age of 18 who witnesses the patient, agent or surrogate agree to decisions made on the MOLST. Verbal consent with two witnesses is permissible.

Section E Physician, Nurse Practitioner, or Physician Assistant Signature for Sections B and C

A licensed physician, NP, or PA must always sign the MOLST. If the physician is licensed in a border state, the physician must insert the abbreviation for the state in which they are licensed, along with their license number on the designated signature line. Verbal orders are acceptable with a follow-up signature by a NYS licensed physician, NP, or PA.

Section F Additional Orders for Life-Sustaining Treatment Treatment Guidelines

Only one option should be checked on the MOLST.

Patients and/or their health care agent or surrogate should be counseled by the health care professional on the differences in the general treatment guidelines options. It is important that the health care provider explains clearly the risks and benefits of each course of treatment and how withholding or withdrawing treatment may impact the patient's medical status.

- No limitation on medical interventions: All life-sustaining treatments will be provided.
- Limited medical interventions, only as described below: Limits the treatment a patient would or would not want to receive based on the MOLST orders. If this option is checked, additional instructions must be written in the space provided under Other Medical Orders and Instructions under Section F.
- Comfort Measures Only. Provide only medical care and treatment with the primary goal of relieving pain and other symptoms: Care will be provided with the intention of relieving any discomfort associated with the patient's illness and reducing suffering. Reasonable measures will be made to offer food and fluids by mouth. Medication, turning in bed, wound care and other measures will be used to relieve pain and suffering. Oxygen, suctioning and manual treatment of airway obstruction will be used as needed for comfort.

The patient and/or their health care agent or surrogate and the physician, NP, or PA should make sure that the selections for specific life-sustaining treatments in the MOLST align with the patient's choices under Treatment Guidelines. For example, if a patient chooses comfort measures only, the patient's decisions for intubation, artificial nutrition, and other specific treatments should be in line with those goals and guidelines.

Artificially Administered Fluids and Nutrition

Check one option for feeding tubes and one option for IV fluids on the MOLST.

When a patient can no longer eat or drink, liquid food or fluids can be given by a tube inserted into the stomach or fluids can be inserted directly into the vein (i.e., IV). Patients can choose to have a long-term feeding tube, no feeding tube, or to determine the use or limitation as the need arises. Under IV fluids, patients can choose to receive or not receive IV fluids or determine the use or limitation as the need arises.

Antibiotics

Only one option should be checked on the MOLST.

Patients can opt to use antibiotics to treat infections, determine use or limitation of antibiotics when infection occurs, or choose not to use antibiotics.

Dialysis

Only one option should be checked on the MOLST.

Patients can opt to use dialysis to treat renal failure, determine use or limitation if renal failure occurs, or choose not to use dialysis.

Other Medical Orders and Instructions

This section of the MOLST is an opportunity to include any limitations or additional preferences for care. Include instructions and goals for trials as discussed with the physician, NP, or PA. If nothing else is discussed, write NONE. There is no limitation as to length, and additional pages may be attached, if necessary.

Section G Consent for Section F

If the patient retains decision-making capacity, the patient should sign the MOLST. If the patient does not have decision-making capacity and the patient's health care agent or surrogate is making decisions on the patient's behalf, the health care agent or surrogate should sign the MOLST. The signature of the individual signing the form and the printed name of the decision-maker should always be the same.

At least two witnesses are required to witness the MOLST being signed by the physician, NP, or PA and the patient, or the patient's health care agent or surrogate. A witness can be anyone over the age of 18 who witnesses the patient, agent or surrogate agree to decisions made on the MOLST. Verbal consent with two witnesses is permissible.

Section H Physician, Nurse Practitioner, or Physician Assistant Signature for Section F

A licensed physician, NP, or PA must always sign the MOLST. If the physician is licensed in a border state, the physician must insert the abbreviation for the state in which they are licensed, along with their license number on the designated signature line. Verbal orders are acceptable with a follow-up signature by a NYS licensed physician, NP, or PA.

Section I Review and Renewal

MOLST orders completed in accordance with New York law remain valid when the patient transitions from one health care setting to another. Public Health Law requires the physician, NP, or PA to review non-hospital DNR orders and record the review at least every 90 days. In hospitals and nursing homes, MOLST orders are medical orders and must be reviewed regularly in accordance with facility policies. The patient's medical condition, prognosis, values, wishes and goals for their care may change over time. The physician, NP, or PA should review the life-sustaining treatment orders at the same time as DNR/Allow Natural Death orders are reviewed and the review is recorded. If a patient or other decision-maker changes their mind about treatment, the physician, NP, or PA should review the MOLST with them.

The MOLST remains valid and must be followed even if it has not been reviewed in the 90-day period.

In addition, all MOLST orders should be reviewed consistent with facility policy and when the patient moves from one location to another to receive care and when the patient has a major change in health status (for better or worse).

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 physician, NP, and PA when any of the above circumstances arise.

Each time the MOLST is reviewed, the physician, NP, or PA should fill in the information as to the date/time of the review, the reviewer's printed name/signature and the location of the review.

Document the outcome of the review in Section I:

- If there is no change, check "No change" in the space provided.
- If there is a change to the MOLST and a new form is completed, write "VOID" in large letters on pages 1 and 2, and complete the new form. Check "Form voided, new form completed" in the space provided. Retain voided MOLST in chart, medical record, or electronic registry as required by law.
- If the MOLST 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 "Form voided, no new form" in the space provided. Retain voided MOLST in chart, medical record, or electronic registry as required by law.

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.