

DRAFT

131st General Assembly
Regular Session
2015-2016

S. B. No.

Senator Lehner
Cosponsors:

A BILL

To amend sections 2133.02, 2133.21, 2133.211, 2133.23, 2133.24, 2133.25, 2133.26, 3795.03, and 4730.09; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 2133.211 (2133.23), 2133.23 (2133.24), 2133.24 (2133.25), 2133.25 (2133.26), and 2133.26 (2133.27); to enact new section 2133.22 and sections 2133.28 to 2133.47; and to repeal section 2133.22 of the Revised Code to establish procedures for the use of medical orders for life-sustaining treatment and to make changes to the laws governing DNR identification and orders.

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

Section 1. That sections 2133.02, 2133.21, 2133.211, 2133.23, 2133.24, 2133.25, 2133.26, 3795.03, and 4730.09 be amended; sections 2133.211 (2133.23), 2133.23 (2133.24), 2133.24 (2133.25), 2133.25 (2133.26), and 2133.26 (2133.27) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new section 2133.22 and sections 2133.28, 2133.29, 2133.30, 2133.31, 2133.32, 2133.33, 2133.34, 2133.35, 2133.36, 2133.37, 2133.38, 2133.39, 2133.40, 2133.41, 2133.42, 2133.43, 2133.44, 2133.45, 2133.46, and 2133.47 of the Revised Code be enacted to read as follows:

Sec. 2133.02. (A) (1) An adult who is of sound mind voluntarily may execute at any time a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment. The declaration shall be signed at the end by the declarant or by another individual at the direction of the declarant, state the date of its execution, and either be witnessed as described in division (B) (1) of this section or be acknowledged by the declarant in accordance with division (B) (2) of this section. The declaration may include a designation by

40 the declarant of one or more persons who are to be notified by
41 the declarant's attending physician at any time that life-
42 sustaining treatment would be withheld or withdrawn pursuant to
43 the declaration. The declaration may include a specific
44 authorization for the use or continuation or the withholding or
45 withdrawal of CPR, but the failure to include a specific
46 authorization for the withholding or withdrawal of CPR does not
47 preclude the withholding or withdrawal of CPR in accordance with
48 sections 2133.01 to 2133.15 or sections 2133.21
49 to ~~2133.26~~ 2133.29 of the Revised Code.

50 (2) Depending upon whether the declarant intends the
51 declaration to apply when the declarant is in a terminal
52 condition, in a permanently unconscious state, or in either a
53 terminal condition or a permanently unconscious state, the
54 declarant's declaration shall use either or both of the terms
55 "terminal condition" and "permanently unconscious state" and
56 shall define or otherwise explain those terms in a manner that
57 is substantially consistent with the provisions of section
58 2133.01 of the Revised Code.

59 (3) (a) If a declarant who has authorized the withholding or
60 withdrawal of life-sustaining treatment intends that the
61 declarant's attending physician withhold or withdraw nutrition
62 or hydration when the declarant is in a permanently unconscious
63 state and when the nutrition and hydration will not or no longer
64 will serve to provide comfort to the declarant or alleviate the
65 declarant's pain, then the declarant shall authorize the
66 declarant's attending physician to withhold or withdraw
67 nutrition or hydration when the declarant is in the permanently
68 unconscious state by doing both of the following in the
69 declaration:

70 (i) Including a statement in capital letters or other
71 conspicuous type, including, but not limited to, a different
72 font, bigger type, or boldface type, that the declarant's
73 attending physician may withhold or withdraw nutrition and
74 hydration if the declarant is in a permanently unconscious state
75 and if the declarant's attending physician and at least one
76 other physician who has examined the declarant determine, to a
77 reasonable degree of medical certainty and in accordance with
78 reasonable medical standards, that nutrition or hydration will
79 not or no longer will serve to provide comfort to the declarant
80 or alleviate the declarant's pain, or checking or otherwise
81 marking a box or line that is adjacent to a similar statement on
82 a printed form of a declaration;

83 (ii) Placing the declarant's initials or signature
84 underneath or adjacent to the statement, check, or other mark
85 described in division (A) (3) (a) (i) of this section.

86 (b) Division (A)(3)(a) of this section does not apply to
87 the extent that a declaration authorizes the withholding or
88 withdrawal of life-sustaining treatment when a declarant is in a
89 terminal condition. The provisions of division (E) of section
90 2133.12 of the Revised Code pertaining to comfort care shall
91 apply to a declarant in a terminal condition.

92 (B)(1) If witnessed for purposes of division (A) of this
93 section, a declaration shall be witnessed by two individuals as
94 described in this division in whose presence the declarant, or
95 another individual at the direction of the declarant, signed the
96 declaration. The witnesses to a declaration shall be adults who
97 are not related to the declarant by blood, marriage, or
98 adoption, who are not the attending physician of the declarant,
99 and who are not the administrator of any nursing home in which
100 the declarant is receiving care. Each witness shall subscribe
101 the witness' signature after the signature of the declarant or
102 other individual at the direction of the declarant and, by doing
103 so, attest to the witness' belief that the declarant appears to
104 be of sound mind and not under or subject to duress, fraud, or
105 undue influence. The signatures of the declarant or other
106 individual at the direction of the declarant under division (A)
107 of this section and of the witnesses under this division are not
108 required to appear on the same page of the declaration.

109 (2) If acknowledged for purposes of division (A) of this
110 section, a declaration shall be acknowledged before a notary
111 public, who shall make the certification described in section
112 147.53 of the Revised Code and also shall attest that the
113 declarant appears to be of sound mind and not under or subject
114 to duress, fraud, or undue influence.

115 (C) An attending physician, or other health care personnel
116 acting under the direction of an attending physician, who is
117 furnished a copy of a declaration shall make it a part of the
118 declarant's medical record and, when section 2133.05 of the
119 Revised Code is applicable, also shall comply with that section.

120 (D)(1) Subject to division (D)(2) of this section, an
121 attending physician of a declarant or a health care facility in
122 which a declarant is confined may refuse to comply or allow
123 compliance with the declarant's declaration on the basis of a
124 matter of conscience or on another basis. An employee or agent
125 of an attending physician of a declarant or of a health care
126 facility in which a declarant is confined may refuse to comply
127 with the declarant's declaration on the basis of a matter of
128 conscience.

129 (2) If an attending physician of a declarant or a health
130 care facility in which a declarant is confined is not willing or

131 not able to comply or allow compliance with the declarant's
132 declaration, the physician or facility promptly shall so advise
133 the declarant and comply with the provisions of section 2133.10
134 of the Revised Code, or, if the declaration has become operative
135 as described in division (A) of section 2133.03 of the Revised
136 Code, shall comply with the provisions of section 2133.10 of the
137 Revised Code.

138 (E) As used in this section, "CPR" has the same meaning as
139 in section 2133.21 of the Revised Code.

140 **Sec. 2133.21.** As used in this section
141 and sections 2133.21 2133.211 to 2133.26 2133.29 of the Revised
142 Code, unless the context clearly requires otherwise:

143 (A) "Attending physician" means the physician to whom a
144 person, or the family of a person, has assigned primary
145 responsibility for the treatment or care of the person or, if
146 the person or the person's family has not assigned that
147 responsibility, the physician who has accepted that
148 responsibility.

149 (B) "CPR" means cardiopulmonary resuscitation or a
150 component of cardiopulmonary resuscitation, but it does not
151 include clearing a person's airway for a purpose other than as a
152 component of CPR.

153 ~~(C) "Declaration," "health care facility," "life-sustaining~~
154 ~~treatment," "physician," "professional disciplinary action," and~~
155 ~~"tort action" have the same meanings as in section 2133.01 of~~
156 ~~the Revised Code~~ means a document executed in accordance with
157 section 2133.02 of the Revised Code.

158 ~~(C)~~(D) "DNR identification" means a standardized
159 identification card, form, necklace, or bracelet that is of
160 uniform size and design, that has been approved by the
161 department of health pursuant to former section 2133.25 of the
162 Revised Code, and that signifies ~~either~~ at least one of the
163 following:

164 (1) That the person who is named on and possesses the card,
165 form, necklace, or bracelet has executed a declaration ~~that~~
166 ~~authorizes the withholding or withdrawal of CPR and~~ that has not
167 been revoked pursuant to section 2133.04 of the Revised Code;

168 (2) That the attending physician of the person who is named
169 on and possesses the card, form, necklace, or bracelet has
170 issued a current do-not-resuscitate order, ~~in accordance with~~
171 ~~the do-not-resuscitate protocol adopted by the department of~~
172 ~~health pursuant to section 2133.25 of the Revised Code,~~ for that
173 person and has documented the grounds for the order in that
174 person's medical record-;

175 (3) That an issuing practitioner has completed a MOLST form
176 that has not been revoked as described in section 2133.38 of the
177 Revised Code.

178 ~~(D)~~ (E) "Do-not-resuscitate order" means a written directive
179 issued by a physician prior to or not later than six months
180 after the effective date of this amendment in accordance with
181 the do-not-resuscitate protocol that identifies a person and
182 specifies that CPR should not be administered to the person so
183 identified.

184 ~~(E)~~ (F) "Do-not-resuscitate protocol" means the standardized
185 method of procedure for the withholding of CPR by physicians,
186 emergency medical service services personnel, and health care
187 facilities that ~~is~~ was adopted in the rules of the department of
188 health pursuant to former section 2133.25 of the Revised Code.

189 ~~(F)~~ (G) "Emergency medical services personnel" means paid or
190 volunteer firefighters,; law enforcement officers,; medical
191 technicians; any of the following, as defined in section 4765.01
192 of the Revised Code: first responders, emergency medical
193 responders technicians-basic, emergency medical technicians-
194 intermediate, or advanced emergency medical technicians and
195 paramedics.; medical technicians,; or other emergency services
196 personnel acting within the ordinary course of their profession.

197 ~~(G) "CPR" means cardiopulmonary resuscitation or a~~
198 ~~component of cardiopulmonary resuscitation, but it does not~~
199 ~~include clearing a person's airway for a purpose other than as a~~
200 ~~component of CPR.~~

201 (H) "Health care facility," "life-sustaining treatment,"
202 "physician," "professional disciplinary action," and "tort
203 action" have the same meanings as in section 2133.01 of the
204 Revised Code.

205 (I) "Issuing practitioner" has the same meaning as in
206 section 2133.30 of the Revised Code.

207 (J) "MOLST FORM" means the form specified in section
208 2133.31 of the Revised Code.

209 **Sec. 2133.22.** Nothing in sections 2133.23 to 2133.29 of
210 the Revised Code condones, authorizes, or approves of mercy
211 killing, assisted suicide, or euthanasia.

212 **Sec. 2133.211 2133.23.** A person who holds a certificate of
213 authority to practice as a certified nurse
214 practitioner or, clinical nurse specialist issued under section
215 4723.42 of the Revised Code, or physician assistant may take any
216 action that may be taken by an attending physician under
217 sections 2133.21 2133.22 to 2133.26 2133.29 of the Revised Code
218 and has the immunity provided by section 2133.22 2133.29 of the

219 Revised Code if, as applicable, the action is taken pursuant to
220 a standard care arrangement with a collaborating physician, a
221 physician supervisory plan approved under section 4730.17 of the
222 Revised Code, or the policies of the health care facility in
223 which the physician assistant is practicing.

224 **Sec. ~~2133.23~~ 2133.24.** (A) If emergency ~~medical services~~
225 ~~personnel, other than physicians,~~ are presented with DNR
226 identification possessed by a person or are presented with
227 a ~~written~~ do-not-resuscitate order for a person ~~or if a~~
228 ~~physician directly issues to emergency medical services~~
229 ~~personnel, other than physicians,~~ an oral do-not-resuscitate
230 ~~order for a person,~~ the emergency ~~medical services~~ personnel
231 shall comply with the ~~do-not-resuscitate protocol for the~~
232 ~~person. If an oral do-not-resuscitate order is issued by a~~
233 ~~physician who is not present at the scene, the emergency medical~~
234 ~~services personnel shall verify the physician's~~
235 identity instructions signified by the DNR identification or in
236 the do-not-resuscitate order.

237 (B) If a person possesses DNR identification and if the
238 person's attending physician or the health care facility in
239 which the person is located is unwilling or unable to comply
240 with the ~~do-not-resuscitate protocol for the person~~ instructions
241 signified by the person's DNR identification or in the do-not-
242 resuscitate order, the attending physician or the health care
243 facility shall not prevent or attempt to prevent, or
244 unreasonably delay or attempt to delay, the transfer of the
245 person to a different physician who will follow
246 the ~~protocol~~ instructions or to a different health care facility
247 in which the ~~protocol~~ instructions will be followed.

248 (C) If a person ~~who~~ being transferred from one health care
249 facility to another possesses DNR identification ~~or for whom a~~
250 ~~current,~~ has executed a declaration, or is the subject of a do-
251 not-resuscitate order that has been issued ~~is being transferred~~
252 ~~from one health care facility to another, before or at the time~~
253 ~~of the transfer,~~ the transferring health care facility shall
254 notify the receiving health care facility and the persons
255 transporting the person of the existence of the DNR
256 identification or the order, declaration, or do-not-resuscitate
257 order. The notice shall be given before or at the time of the
258 transfer. If a current do-not-resuscitate order was issued
259 ~~orally, it shall be reduced to writing before the time of the~~
260 ~~transfer. The DNR identification or the order, declaration, or~~
261 do-not-resuscitate order shall accompany the person to the
262 receiving health care facility and shall remain in effect unless
263 it is revoked or unless, in the case of a do-not-resuscitate
264 order, the order no longer is current.

265 (D) If emergency medical services personnel, a physician,
266 or a health care facility is aware that a person's DNR
267 identification signifies that the person is the subject of a
268 MOLST form, the emergency medical services personnel, physician,
269 or health care facility shall comply with sections 2133.30 to
270 2133.47 of the Revised Code.

271 **Sec. ~~2133.24~~ 2133.25.** (A) The death of a person resulting
272 from the withholding or withdrawal of CPR ~~for~~ from the person
273 pursuant to ~~the do-not-resuscitate protocol and in the~~
274 ~~circumstances described in section 2133.22 of the Revised Code~~
275 ~~or in accordance with division (A) of section 2133.23 of the~~
276 ~~Revised Code~~ instructions in a declaration executed by the
277 person, a do-not-resuscitate order that has been issued for the
278 person, or pursuant to instructions that form the basis of the
279 person's DNR identification does not constitute for any purpose
280 a suicide, aggravated murder, murder, or any other homicide.

281 (B) (1) If a person has executed a declaration, a do-not-
282 resuscitate order has been issued for the person, or the
283 person possesses DNR identification ~~or if a current do-not-~~
284 ~~resuscitate order has been issued for a person, the existence of~~
285 the declaration, do-not-resuscitate order, or the possession of
286 order of the DNR identification shall not do either of the
287 following:

288 (a) Affect in any manner the sale, procurement, issuance,
289 or renewal of a policy of life insurance or annuity,
290 notwithstanding any term of a policy or annuity to the contrary;

291 (b) Be deemed to modify in any manner or invalidate the
292 terms of any policy of life insurance or annuity that is in
293 effect on the effective date of this section.

294 (2) Notwithstanding any term of a policy of life insurance
295 or annuity to the contrary, the withholding or withdrawal of CPR
296 from a person who is insured or covered under the policy or
297 annuity and who possesses DNR identification ~~or for whom a~~
298 ~~current do-not-resuscitate order has been issued, in accordance~~
299 ~~with sections 2133.21 to 2133.26 of the Revised Code, who has~~
300 executed a declaration, or for whom a do-not-resuscitate order
301 has been issued shall not impair or invalidate any policy of
302 life insurance or annuity.

303 (3) Notwithstanding any term of a policy or plan to the
304 contrary, neither of the following shall impair or invalidate
305 any policy of health insurance or other health care benefit
306 plan:

307 (a) The withholding or withdrawal in accordance with
308 sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code of CPR
309 from a person who is insured or covered under the policy or plan

310 and who possesses DNR identification ~~or for whom a current do-~~
311 ~~not resuscitate order has been issued~~, who has executed a
312 declaration, or for whom a do-not-resuscitate order has been
313 issued;

314 (b) The provision in accordance with sections 2133.21
315 to ~~2133.26~~ 2133.29 of the Revised Code of CPR to a person of the
316 nature described in division (B) (3) (a) of this section.

317 (4) No physician, health care facility, other health care
318 provider, person authorized to engage in the business of
319 insurance in this state under Title XXXIX of the Revised Code,
320 health insuring corporation, other health care benefit plan,
321 legal entity that is self-insured and provides benefits to its
322 employees or members, or other person shall require an
323 individual to possess DNR identification, execute a declaration,
324 or have a do-not-resuscitate order issued, or shall require an
325 individual to revoke or refrain from possessing DNR
326 identification, as a condition of being insured or of receiving
327 health care benefits or services.

328 (C) (1) Sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised
329 Code do not create any presumption concerning the intent of an
330 individual who does not possess DNR identification with respect
331 to the use, continuation, withholding, or withdrawal of CPR.

332 (2) Sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code
333 do not affect the right of a person to make informed decisions
334 regarding the use, continuation, withholding, or withdrawal of
335 CPR for the person as long as the person is able to make those
336 decisions.

337 (3) Sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code
338 are in addition to and independent of, and do not limit, impair,
339 or supersede, any right or responsibility that a person has to
340 effect the withholding or withdrawal of life-sustaining
341 treatment to another pursuant to sections 2133.01 to 2133.15 or
342 sections 2133.30 to 2133.47 of the Revised Code or in any other
343 lawful manner.

344 ~~(D) Nothing in sections 2133.21 to 2133.26 of the Revised~~
345 ~~Code condones, authorizes, or approves of mercy killing,~~
346 ~~assisted suicide, or euthanasia.~~

347 **Sec. 2133.25** 2133.26. (A) The department of health, by
348 rule adopted pursuant to Chapter 119. of the Revised Code, ~~shall~~
349 ~~adopt a standardized method of procedure for the withholding of~~
350 ~~CPR by physicians, emergency medical services personnel, and~~
351 ~~health care facilities in accordance with sections 2133.21 to~~
352 ~~2133.26 of the Revised Code. The standardized method shall~~
353 ~~specify criteria for determining when a do not resuscitate order~~
354 ~~issued by a physician is current. The standardized method so~~

355 ~~adopted shall be the "do not resuscitate protocol" for purposes~~
356 ~~of sections 2133.21 to 2133.26 of the Revised Code. The~~
357 ~~department also shall approve one or more standard forms of DNR~~
358 ~~identification to be used throughout this state and shall~~
359 ~~specify one or more procedures for revoking the forms of~~
360 ~~identification.~~

361 (B) ~~The department of health shall adopt rules in~~
362 ~~accordance with Chapter 119. of the Revised Code for the~~
363 ~~administration of sections 2133.21 to 2133.26 of the Revised~~
364 ~~Code The do-not-resuscitate protocol adopted by the department~~
365 ~~in rules adopted under former section 2133.25 of the Revised~~
366 ~~Code are effective only for do-not-resuscitate orders issued on~~
367 ~~a date that is not later than six months after the effective~~
368 ~~date of this amendment. The criteria for determining when a do-~~
369 ~~not-resuscitate order is current apply only to orders issued~~
370 ~~before that date.~~

371 (C) ~~The department of health shall appoint an advisory~~
372 ~~committee to advise the department in the development of rules~~
373 ~~under this section. The advisory committee shall include, but~~
374 ~~shall not be limited to, representatives of each of the~~
375 ~~following organizations:~~

- 376 ~~(1) The association for hospitals and health systems (OHA);~~
- 377 ~~(2) The Ohio state medical association;~~
- 378 ~~(3) The Ohio chapter of the American college of emergency~~
379 ~~physicians;~~
- 380 ~~(4) The Ohio hospice organization;~~
- 381 ~~(5) The Ohio council for home care;~~
- 382 ~~(6) The Ohio health care association;~~
- 383 ~~(7) The Ohio ambulance association;~~
- 384 ~~(8) The Ohio medical directors association;~~
- 385 ~~(9) The Ohio association of emergency medical services;~~
- 386 ~~(10) The bioethics network of Ohio;~~
- 387 ~~(11) The Ohio nurses association;~~
- 388 ~~(12) The Ohio academy of nursing homes;~~
- 389 ~~(13) The Ohio association of professional firefighters;~~
- 390 ~~(14) The department of developmental disabilities;~~
- 391 ~~(15) The Ohio osteopathic association;~~
- 392 ~~(16) The association of Ohio philanthropic homes, housing~~
393 ~~and services for the aging;~~
- 394 ~~(17) The catholic conference of Ohio;~~

395 ~~(18) The department of aging;~~

396 ~~(19) The department of mental health and addiction~~
397 ~~services;~~

398 ~~(20) The Ohio private residential association;~~

399 ~~(21) The northern Ohio fire fighters association.~~

400 **Sec. 2133.26** 2133.27. (A) (1) No physician shall purposely
401 prevent or attempt to prevent, or delay or unreasonably attempt
402 to delay, the transfer of a patient in violation of division (B)
403 of section ~~2133.23~~ 2133.24 of the Revised Code.

404 (2) No person shall purposely conceal, cancel, deface, or
405 obliterate the DNR identification of another person without the
406 consent of the other person.

407 (3) No person shall purposely falsify or forge a revocation
408 of a declaration that is the basis of the DNR identification of
409 another person or purposely falsify or forge an order of a
410 physician that purports to supersede a do-not-resuscitate order
411 issued for another person.

412 (4) No person shall purposely falsify or forge the DNR
413 identification of another person with the intent to cause the
414 use, withholding, or withdrawal of CPR for the other person.

415 ~~(5) No person who has personal knowledge that another~~
416 ~~person has revoked a declaration that is the basis of the other~~
417 ~~person's DNR identification or personal knowledge that a~~
418 ~~physician has issued an order that supersedes a do-not-~~
419 ~~resuscitate order that the physician issued for another~~
420 ~~person~~ Neither of the following shall purposely conceal or
421 withhold that personal knowledge with the intent to cause the
422 use, withholding, or withdrawal of CPR for the other person:

423 (a) A person who has personal knowledge that another person
424 has revoked a declaration that is the basis of the other
425 person's DNR identification;

426 (b) A person who has personal knowledge that a physician
427 has issued an order that supersedes a do-not-resuscitate order
428 that the physician issued for another person.

429 (B) (1) Whoever violates division (A) (1) or (5) of this
430 section is guilty of a misdemeanor of the third degree.

431 (2) Whoever violates division (A) (2), (3), or (4) of this
432 section is guilty of a misdemeanor of the first degree.

433 **Sec. 2133.28.** (A) None of the following shall be subject to
434 criminal prosecution, liability in damages in a tort or other
435 civil action for injury, death, or loss to person or property,
436 or professional disciplinary action arising out of or relating

437 to the withholding or withdrawal of CPR from a person after DNR
438 identification is discovered in the person's possession and
439 reasonable efforts have been made to determine that the person
440 in possession of the DNR identification is the person named on
441 the identification, if the withholding or withdrawal is in
442 accordance with the instructions signified by the DNR
443 identification:

444 (1) The health care facility in which the person is
445 present, the administrator of that facility, and any person who
446 works for the facility as an employee or contractor, or who
447 volunteers at the health care facility, and who participates
448 under the direction of or with the authorization of a physician
449 in the withholding or withdrawal of CPR from the person
450 possessing the DNR identification;

451 (2) A physician who causes the withholding or withdrawal of
452 CPR from a person who possesses DNR identification;

453 (3) Any emergency ~~medical~~ services personnel who cause or
454 participate in the withholding or withdrawal of CPR from the
455 person possessing the DNR identification.

456 (B) If, after DNR identification is discovered in the
457 possession of a person, the person makes an oral or written
458 request to receive CPR, any person who provides CPR pursuant to
459 the request, any health care facility in which CPR is provided,
460 and the administrator of any health care facility in which CPR
461 is provided are not subject to criminal prosecution as a result
462 of the provision of CPR, are not liable in damages in tort or
463 other civil action for injury, death, or loss to person or
464 property that arises out of or is related to the provision of
465 CPR, and are not subject to professional disciplinary action as
466 a result of the provision of CPR.

467 **Sec. 2133.29.** (A) In an emergency situation, emergency
468 ~~medical~~ services personnel are not required to search a person
469 to determine if the person possesses DNR identification. If
470 emergency ~~medical~~ services personnel or emergency department
471 personnel provide CPR to a person in possession of DNR
472 identification in an emergency situation, and if, at that time,
473 the personnel do not know and do not have reasonable cause to
474 believe that the person possesses DNR identification, the
475 emergency ~~medical~~ services personnel and emergency department
476 personnel are not subject to criminal prosecution as a result of
477 the provision of the CPR, are not liable in damages in tort or
478 other civil action for injury, death, or loss to person or
479 property that arises out of or is related to the provision of
480 CPR, and are not subject to professional disciplinary action as
481 a result of the provision of CPR.

482 (B) Nothing in this section or sections 2133.21 to 2133.29
483 of the Revised Code grants immunity to a physician for issuing a
484 do-not-resuscitate order that is contrary to reasonable medical
485 standards or that the physician knows or has reason to know is
486 contrary to the wishes of the patient or of a person who is
487 authorized to make informed medical decisions on the patient's
488 behalf.

489 **Sec. 2133.30.** As used in this section and sections 2133.31
490 to 2133.47 of the Revised Code:

491 (A) "Attending physician" means the physician to whom a
492 patient or agent, guardian, next of kin, or legal custodian
493 patient's family has assigned primary responsibility for the
494 medical treatment or care of the patient or, if the
495 responsibility has not been assigned, the physician who has
496 accepted that responsibility.

497 (B) "Certified nurse practitioner" and "clinical nurse
498 specialist" have the same meanings as in section 4723.01 of the
499 Revised Code.

500 (C) "Comfort care" means any of the following:

501 (1) Nutrition when administered to diminish pain or
502 discomfort, but not to postpone death;

503 (2) Hydration when administered to diminish pain or
504 discomfort, but not to postpone death;

505 (3) Any other medical or nursing procedure, treatment,
506 intervention, or other measure that is taken to diminish pain or
507 discomfort, but not to postpone death.

508 (D) "CPR" has the same meaning as in section 2133.21 of the
509 Revised Code.

510 (E) "Declaration" means a document executed in accordance
511 with section 2133.02 of the Revised Code.

512 (F) "DNR identification" and "do-not-resuscitate order"
513 have the same meanings as in section 2133.21 of the Revised
514 Code.

515 (G) "Durable power of attorney for health care" means a
516 document created pursuant to sections 1337.11 to 1337.17 of the
517 Revised Code.

518 (H) "Emergency ~~medical~~ services person" is the singular of
519 "emergency ~~medical~~ services personnel," as defined in section
520 ~~2133.21~~ 4765.01 and 4765.011 of the Revised Code.

521 (I) "Form preparer" means the issuing practitioner who
522 completes and signs a medical orders for life-sustaining
523 treatment form or the individual who completes the form pursuant

524 to the practitioner's delegation and for the practitioner's
525 signature.

526 (J) "Guardian" has the same meaning as in section 2133.01
527 of the Revised Code.

528 (K) "Health care facility" means any of the following:

529 (1) A health care facility, as defined in section 1337.11
530 of the Revised Code;

531 (2) An ambulatory surgical facility, as defined in section
532 3702.30 of the Revised Code;

533 (3) A residential care facility, as defined in section
534 3721.01 of the Revised Code;

535 (4) A freestanding dialysis center.

536 (L) "Issuing practitioner" means a physician, physician
537 assistant, certified nurse practitioner, or clinical nurse
538 specialist, acting within their scope of practice, who issues
539 medical orders for life-sustaining treatment for a patient by
540 signing as the issuing practitioner the medical orders for life-
541 sustaining treatment form for the patient.

542 (M) "Life-sustaining treatment" means any medical
543 procedure, treatment, intervention, or other measure that, when
544 administered to a patient, is intended to serve principally to
545 prolong the process of dying.

546 (N) "Medical orders for life-sustaining treatment" means
547 instructions, issued by a physician, physician assistant,
548 certified nurse practitioner, or clinical nurse specialist,
549 regarding how a patient should be treated with respect to
550 hospitalization, administration or withdrawal of life-sustaining
551 treatment and comfort care, administration of CPR, and other
552 treatment prescribed by the Revised Code.

553 (O) "Medical orders for life-sustaining treatment form,"
554 "MOLST form," or "form" means the form specified in section
555 2133.31 of the Revised Code.

556 (P) "Artificially Medically administered hydration" means
557 fluids that are technologically administered.

558 (Q) "Artificially Medically administered nutrition" means
559 sustenance that is technologically administered.

560 (R) "Physician" means an individual authorized under
561 Chapter 4731. of the Revised Code to practice medicine and
562 surgery or osteopathic medicine and surgery.

563 (S) "Physician assistant" means an individual who holds a
564 valid certificate to practice as a physician assistant issued
565 under Chapter 4730. of the Revised Code.

566 Sec. 2133.31. A medical orders for life-sustaining
567 treatment form (MOLST FORM) shall be substantially in the
568 following form. It is recommended that the form's title, along
569 with identifying information, patient's name, date of birth,
570 last 4 numbers of their social security and gender appear on the
571 top of page one and the form's title and patient's name, date of
572 birth, appear on any remaining pages of the form.

573
574

575 **OHIO MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT FORM**
576 **Sec. 2133.31. ("MOLST FORM")**

577
578

579 (Patient's) Last Name / First / Middle Initial (printed):
580 (Patient's) Date of Birth:
581 (Patient's) Last 4 SSN:Gender: M / F:

582

583 HIPAA PERMITS DISCLOSURE OF MOLST TO OTHER HEALTH CARE
584 PROFESSIONALS AS NECESSARY.

585

586 This form supersedes all previously signed MOLST FORMS. Comfort
587 measures will be provided regardless of level of intervention
588 chosen.

589

590

591 **A. CARDIOPULMONARY RESUSCITATION (CPR): Individual has no pulse**
592 **and/or is not breathing. Check only one:**

593

594 [] **Attempt resuscitation/CPR.** With full treatment and
595 intervention including intubation, advanced airway
596 interventions, mechanical ventilation, defibrillation, and
597 cardioversion as indicated. Transfer to hospital and to
598 intensive care if indicated.

599

600 [] **Do NOT attempt resuscitation/DNR (no CPR).**

601

602 **When patient is not in cardiopulmonary arrest, follow the orders**
603 **in sections B and C.**

604

605 **B. MEDICAL INTERVENTIONS: Patient has a pulse and/or is**
606 **breathing. Check only one:**

607

608 [] **Comfort measures only.** Use medication by any route,
609 positioning, wound care, and other measures to relieve pain and

610 suffering. Use oxygen, suction, and manual treatment of airway
611 obstruction as needed for comfort. Transfer to the appropriate
612 level of care setting to provide comfort care measures.

613
614 Additional order/instructions:
615

616

617 [] **Limited additional interventions. Treatment Plan: Provide**
618 **basic medical intervention:** Includes all care described above.
619 Use medical treatment, antibiotics, intravenous fluids, and
620 cardiac monitor as indicated. Do not use intubation, advanced
621 airway interventions, or mechanical ventilation. May use
622 noninvasive airway support (e.g., CPAP, BiPAP). Transfer to
623 hospital if indicated; generally avoid intensive care.

624
625 Additional order/instructions:
626

627

628 [] **Full intervention. Treatment Plan: Full treatment including**
629 **life-supporting measures:** Includes care described above. Use
630 intubation, advanced airway interventions, mechanical
631 ventilation, defibrillation, and cardioversion as indicated.
632 Transfer to hospital and to intensive care if indicated.

633
634 Additional order/instructions:
635

636

637

638 **C. ARTIFICIALLY ADMINISTERED NUTRITION/HYDRATION**

639 The administration of nutrition and/or hydration, whether orally
640 or by invasive means, shall occur except in the event that a
641 condition arises that is life-limiting or irreversible in which
642 the nutrition and/or hydration becomes a greater burden than
643 benefit to the patient. **Always offer by mouth, if**
644 **feasible. Check only one in each column:**

[] Long term artificial nutrition by tube feeding

[] Defined trial period of artificial nutrition by tube
feeding

[] Artificial nutrition by tube feeding to diminish pain or
discomfort

[] No Artificial administered nutrition by tube feeding

645

646
647
648 Goals of care/additional orders/instructions:
649

650
651 Page 1 MOLST continued on the next page
652

653
654 **OHIO MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT Sec. 2133.31.**
655 **("MOLST FORM")**
656

657 Information for individual named on this form - name:
658 DOB:

659
660 **D. AUTHORIZATION NAME(S) AND SIGNATURE(S) BELONG(S) TO (CHECK**
661 **ONLY ONE) :**

- 662 Patient
663 Guardian (As in this document and section ORC 2133.01,
664 guardian appointed by a probate court)
665 Health Care Power of Attorney (Attach HCPOA if signed)
666 Living Will Declaration (Attach LW if signed)
667 Next of kin as specified in section ORC 2133.08(B)
668 o Spouse
669 o Majority of adult children (available within
670 reasonable time)
671 o Parents
672 o Majority of adult siblings (available within
673 reasonable time)
674 o Other nearest related adult (available within
675 reasonable time)
676 Parent, guardian, or legal custodian of a minor

677
678 **Name (print):**

679
680 **Phone Contact:**

681
682 **Signature (mandatory):**

683
684 **Date Signed:**

685
686
687 **E. SIGNATURE OF ISSUING PRACTITIONER**

688 My signature in this section indicates to the best of my
689 knowledge that these orders are consistent with the patient's
690 current medical condition and preferences as indicated by the
691 patient's advance directive(s), previous and/or recent
692 discussions with the person identified in Section D above.

693
694
695 Name of Practitioner (print):

696
697 Signature of Practitioner (mandatory):

698
699 Date Signed: License # Phone #
700

701 **SIGNATURE OF FORM PREPARER**

702
703 Name of Form Preparer and Credentials (print):

704 Phone #

705
706 Signature of Form Preparer: Date Signed:
707

708 **F. REVIEW OF MOLST FORM**

709 A MOLST FORM may be revoked at any time and in any manner that
710 communicates the intent to revoke. A MOLST FORM does not expire
711 unless revoked.

712 **Review of This MOLST Form**

<u>Review date and time</u>	<u>Reviewer's name (printed)</u>	<u>Location of review</u>	<u>Review Outcome</u>
			<u>[] No change</u>
			<u>[] Revoked and new form completed</u>

713 (Repeat review opportunity on form 2 more times for a total of
714 3.)

715
716 **SEND FORM WITH PATIENT WHENEVER PATIENT IS TRANSFERRED OR**
717 **DISCHARGED**

718 Use of original form is strongly encouraged. Photocopies and
719 faxes of signed MOLST forms are legal and valid.

724 OHIO MOLST FORM INFORMATIONAL SUPPLIMENT
725

726 NOTICE TO ADULT NAMED ON THIS FORM

727 The MOLST FORM is a medical order form that documents important health decisions
728 regarding your care. You or your representative's (Agent, Guardian, Next of Kin, or Legal
729 Custodian) input and approval of the use of this form is needed before it becomes a valid
730 document. Below is provided as an informational supplement to the MOLST FORM. Before
731 executing this document with your practitioner, you should know these facts.

732
733 The MOLST FORM is **always voluntary**. This form is usually for
734 persons who are frail and/or experiencing advanced or
735 progressing illness. There is no requirement that you, or your
736 legal representative (guardian, agent, next of kin, or legal
737 custodian) execute a MOLST FORM. You will still receive
738 treatment whether or not this form is executed.

739
740 These medical orders are based on your medical condition and
741 advance directives or preferences at the time the orders are
742 issued. Any section not completed does not invalidate the form
743 and implies full treatment for that section. MOLST records your
744 wishes for medical treatment in your current state of health.
745 Once initial medical treatment is begun and the risks and
746 benefits of further therapy are clear, your treatment wishes may
747 change. Your medical care and the form can be changed to reflect
748 your new wishes at any time. However, no form can address all
749 the medical treatment decisions that may need to be made. An
750 advance directive, such as the Living Will and/or Ohio Health
751 Care Power of Attorney, is recommended for all competent adults,
752 regardless of their health status. An advance directive allows
753 you to document in detail your future health care instructions
754 and/or name a Health Care "Attorney-in-Fact" or "Agent" to speak
755 for you if you are unable to speak for yourself.

756
757 You will be treated with dignity and respect and attention shall
758 be given to your medical needs. The duty of medicine is to care
759 for you even when you cannot be cured. Moral judgments about the
760 use of technology to maintain life shall reflect the inherent
761 dignity of human life, the duty of medical care, medical
762 standards of practice, and your individual wishes. Use of the
763 MOLST FORM recognizes the allowing of a natural death to occur.

764 MOLST does not allow for active euthanasia or physician assisted
765 suicide.

766

767 **Implementing MOLST**

768 When signed, this form supersedes all previously signed MOLST
769 FORMS. If a health care provider or facility cannot comply with
770 the orders due to policy or personal ethics, the provider or
771 facility must arrange for your transfer to another provider or
772 facility and provide at least requested care in the meantime.

773

774 **Reviewing the MOLST**

775 This form should be reviewed periodically, such as when you are
776 transferred from one care setting or care level to another or
777 there is a substantial change in your health status. A new MOLST
778 FORM should be completed if your wishes to make a substantive
779 change to your treatment goal(s) (e.g., reversal of a prior
780 directive). A MOLST FORM shall be retained in the medical chart
781 per section 2133.35.

782

783 **Revoking the MOLST**

784 This form may be revoked at any time and in any manner that
785 communicates the intent to revoke. If you are under eighteen
786 years of age, your parent, guardian, or legal custodian, may
787 revoke a MOLST from at any time and in any manner that
788 communicates the intent to revoke. A MOLST FORM shall be
789 retained in your medical record.

790

791 **Portability of the MOLST FORM**

792 This form shall be sent with you whenever you are transferred or
793 discharged. Use of the original form is strongly encouraged,
794 however, photocopies and faxes of signed MOLST FORMs are legal
795 and valid. HIPAA permits disclosure to health care professionals
796 as necessary for treatment.

797

798 **Sec. 2133.32.** The department of health shall make a
799 version of the MOLST form available on the department's internet
800 web site. The form shall be made available in a format that can
801 be downloaded free of charge and reproduced.

802 **Sec. 2133.33.** A physician, physician assistant, certified
803 nurse practitioner, or clinical nurse specialist may at any time
804 issue medical orders for life-sustaining treatment for a patient
805 by completing a MOLST form. Patients for whom medical orders for

806 life-sustaining treatment are suggested, but not required,
807 include those persons who are frail and/or experiencing advanced
808 or progressing illness who are suffering from an illness that is
809 in its advanced stages.

810 Once completed and signed in accordance with sections
811 2133.34 and 2133.35 of the Revised Code, a MOLST form is valid
812 and the instructions in it become operative and govern how the
813 patient who is the subject of the form is to be treated with
814 respect to hospitalization, administration or withdrawal of
815 life-sustaining treatment and comfort care, administration of
816 CPR, and any other medical treatment specified on the form.

817 At all times, the issuance of medical orders for life-
818 sustaining treatment shall be guided by prudent medical practice
819 and standards.

820 **Sec. 2133.34.** (A) Both of the following persons shall
821 participate in completion of a MOLST form:

822 (1) The issuing practitioner, who shall sign and date the
823 form in the space designated for the practitioner's signature
824 and who may complete the form or delegate to another person the
825 responsibility of the form's completion other than signing the
826 form;

827 (2) The patient, who shall sign and date the form in the
828 space designated for the patient's signature, unless either of
829 the following is the case:

830 (a) A circumstance described in division (B) applies;

831 (b) The patient, in a separate written document, has
832 authorized a representative (guardian, agent, next of kin, or
833 legal custodian), including an agent named under the patient's
834 durable power of attorney for health care, to revoke a MOLST
835 FORM and complete a new form on the patient's behalf.

836 (B)(1) If the patient is at least eighteen years of age,
837 incapacitated, has a legally effective durable power of attorney
838 for health care, and is not already the subject of a valid MOLST
839 form, the patient's agent under the patient's durable power of
840 attorney for health care shall sign and date the form in the
841 space designated for such signature and indicate the person's
842 status as the patient's agent.

843 (2) If the patient is at least eighteen years of age,
844 incapacitated, does not have a legally effective durable power
845 of attorney for health care, and is not the subject of a valid
846 MOLST form, the individual or class of individuals specified in
847 the descending order of priority in division (B) of section
848 2133.08 of the Revised Code, subject to division (C) of that
849 section, shall sign and date the form in the space designated

850 for such signature or signatures and indicate the relationship
851 to the patient.

852 (3) If the patient is under eighteen years of age, the
853 parent, guardian, or legal custodian of the patient shall sign
854 and date the form in the space designated for such signature and
855 indicate the relationship to the patient.

856

857 **Sec. 2133.34.** A completed MOLST FORM shall contain the
858 following:

859 (1) The signature of the Issuing Practitioner, who shall
860 sign and date the form in the space designated for the
861 practitioner's signature; and

862 (2) The signature of the patient, who shall sign and date
863 the form in the space designated for the patient's signature,
864 unless one of the following is the case:

865 (a) A guardian of the patient who has been appointed by a
866 court, as provided in chapter 2111 and section 2133.01 of the
867 Revised Code, may sign the form on behalf of the patient; or

868 (b) An attorney-in-fact who is acting under a durable
869 power of attorney for health care (executed according to
870 sections 1337.11 - 1337.17 of the Revised Code) and is making
871 health care decisions for the patient may sign the form on
872 behalf of the patient; or

873 (c) The patient's next of kin who is making health care
874 decisions for the patient, according to section 2133.08(B) of
875 the Revised Code, may sing the form on behalf of the patient; or

876 (d) The patient is under eighteen years of age, in which
877 case the parent, guardian, or legal custodian of the patient
878 shall sign and date the form in the space designated for such
879 signature and indicate the relationship to the patient, except
880 that the patient's parent, guardian, or legal custodian may not
881 indicate instructions that would result in the withholding of
882 medically indicated treatment, as defined in section 14 of the
883 "Child Abuse Prevention, Adoption, and Family Services Act of
884 1988," 102 Stat. 117 (1988), 42 U.S.C. 5106g, as amended: and

885 (3) If the Issuing Practitioner delegates to another person
886 authority to complete the form, the signature of the Form

887 Preparer, who shall sign and date the form in the space
888 designated for the Form Preparer.

889 **Sec. 2133.35.** (A) When completing a MOLST form, the form
890 preparer shall discuss the instructions in the form with the
891 patient or the individual or class of individuals who
892 participate in the form's completion on the patient's behalf in
893 accordance with division (A) (2) or (B) of section 2133.34 of the
894 Revised Code. The instructions the form preparer lists on the
895 form shall be consistent with the desires of that person or
896 persons, except that if the patient is under eighteen years of
897 age, the patient's parent, guardian, or legal custodian may not
898 indicate instructions that would result in the withholding of
899 medically indicated treatment, as defined in section 14 of the
900 "Child Abuse Prevention, Adoption, and Family Services Act of
901 1988," 102 Stat. 117 (1988), 42 U.S.C. 5106g, as amended.

902 (B) A declaration or durable power of attorney for health
903 care, or both, if a copy of one or both documents is furnished
904 to the form preparer, may guide the discussion between the form
905 preparer and the patient or other person or persons who
906 participate in the form's completion.

907

908 **(DELETED 2133.35 then RENUMBERED 2133.36 through 2133.46**
909 **starting with 2133.35)**

910 **Sec. 2133.35.** A completed MOLST FORM shall be placed in
911 the paper or electronic medical record of the patient to whom it
912 pertains. Whether maintained as part of a paper or electronic
913 medical record, the form shall be readily available and
914 retrievable.

915 **Sec. 2133.36.** (A) If a patient with a MOLST FORM is
916 transferred from one health care facility to another health care
917 facility, the health care facility initiating the transfer shall
918 communicate the existence of, and send a copy of, the form to
919 the receiving facility prior to the transfer. The copy may be
920 sent by regular mail or by facsimile or other electronic means.
921 A copy of the form is the same as the original.

922 (B) Consistent with section 2133.36 of the Revised Code,
923 the copy of the MOLST FORM shall be placed in the patient's
924 medical record immediately on receipt by the receiving facility.
925 After admission, the attending physician shall review the MOLST
926 FORM.

927 (C) If a person who possesses a MOLST FORM or for whom a
928 current MOLST FORM has been issued is being treated and/or
929 transferred by Emergency Services Personnel a copy of the MOLST
930 FORM shall be retained by the Emergency Services Department.

931 Sec. 2133.37. The patient, the patient's authorized
932 representative described (Agent, Guardian, Next of Kin, Legal
933 Custodian) in division (A)(2) or (B) of section 2133.34 of the
934 Revised Code, or, if the patient is under eighteen years of age,
935 the patient's parent, guardian, or legal custodian, may revoke a
936 MOLST form at any time and in any manner that communicates the
937 intent to revoke. A revoked MOLST form shall be retained in the
938 patient's medical record.

939 Sec. 2133.38. Unless revoked in accordance with section
940 2133.38 of the Revised Code, a MOLST FORM does not expire.

941 Sec. 2133.39. In an emergency situation, emergency services
942 personnel are not required to search a person to determine if
943 the person possesses a MOLST FORM identification. If a person
944 possesses a MOLST FORM, if emergency services personnel or
945 emergency department personnel provide care to the person in an
946 emergency situation, and if, at that time, the personnel do not
947 know and do not have reasonable cause to believe that the person
948 possesses a MOLST FORM, the emergency services personnel are not
949 subject to criminal prosecution as a result of the provisions of
950 the MOLST FORM, are not subject to liability in damages in a
951 civil action for injury, death, or loss to person or property
952 that arises out of or is related to compliance with the
953 provisions of the MOLST FORM or order, are not subject to
954 criminal prosecution as a result of compliance with the order,
955 and are not subject to professional disciplinary action as a
956 result of compliance with the order.

957
958 If an emergency medical services person personnel
959 determines in an emergency situation that either of the
960 following applies, the emergency medical services person shall
961 proceed to treat the patient as directed, verbally or in
962 writing, by a physician, or, if applicable, the cooperating
963 physician advisory board of the emergency medical service
964 organization with which the emergency medical services person
965 personnel is affiliated:

966 (A) An instruction in the patient's MOLST form is
967 inconsistent with an instruction in any of the following:

968 (1) A do not resuscitate order that applies to the patient;

969 (2) A general consent to treatment form signed by or on
970 behalf of the patient;

971 (3) A declaration executed by the patient;

972 (4) A durable power of attorney for health care executed by
973 the patient.

974 (B) The section of the MOLST form that relates to the
975 patient's treatment in that emergency situation has not been
976 completed.

977 **Sec. 2133.40.** (A) Subject to division (B) of this section,
978 no health care facility, health care professional, emergency
979 medical services person personnel, or other individual who works
980 for or volunteers in an emergent situation to the scene of an
981 accident, in a person's home or public setting, at a health care
982 facility as an employee, contractor, or volunteer and who is or
983 who works or volunteers under the direction of or with the
984 authorization of a physician, physician assistant, certified
985 nurse practitioner, or clinical nurse specialist shall be
986 subject to criminal prosecution, liable in damages in tort or
987 other civil action, or subject to professional disciplinary
988 action for acting in good faith and in accordance with, or
989 otherwise being in compliance with, a valid MOLST form or
990 sections 2133.31 to 2133.47 of the Revised Code.

991 (B) Division (A) of this section does not grant immunity
992 from criminal or civil liability or from professional
993 disciplinary action to a health care professional or emergency
994 medical service person for actions that are outside the
995 professional's or person's scope of authority.

996 **Sec. 2133.41.** The death of an individual that occurs as a
997 result of actions taken consistent with instructions in a MOLST
998 form does not constitute for any purpose a suicide, aggravated
999 murder, murder, or any other homicide.

1000 **Sec. 2133.42.** The issuance or non-issuance of a MOLST form
1001 shall not do any of the following:

1002 (A) Affect in any manner the sale, procurement, issuance,
1003 or renewal of a policy of life insurance or annuity,
1004 notwithstanding any term of a policy or annuity to the contrary;

1005 (B) Modify in any manner or invalidate the terms of a
1006 policy of life insurance or annuity that is in effect on the
1007 effective date of this section;

1008 (C) Impair or invalidate a policy of life insurance or
1009 annuity or any health benefit plan.

1010 **Sec. 2133.43.** No physician, health care facility, other
1011 health care provider, person authorized to engage in the
1012 business of insurance in this state under Title XXXIX of the
1013 Revised Code, health insuring corporation, other health care
1014 benefit plan, legal entity that is self-insured and provides
1015 benefits to its employees or members, governmental entity, or
1016 other person shall require that an individual be the subject of
1017 a MOLST form, or require an individual to revoke or refrain from

1018 being the subject of a MOLST form, as a condition of being
1019 insured or of receiving health care benefits or services.

1020 **Sec. 2133.44.** (A) Subject to divisions (B) and (C) of this
1021 section, an attending physician of a patient or a health care
1022 facility in which a patient is located may refuse to comply or
1023 allow compliance with one or more instructions in a MOLST form
1024 on the basis of conscience or on another basis. An employee of
1025 an attending physician or of a health care facility in which a
1026 patient is located may refuse to comply with one or more
1027 instructions in a MOLST form on the basis of a matter of
1028 conscience.

1029 (B) An attending physician of a patient who, or a health
1030 care facility in which a patient is confined that, is not
1031 willing or not able to comply or allow compliance with one or
1032 more instructions in a MOLST form shall immediately notify the
1033 patient or person who has signed the MOLST form on the patient's
1034 behalf under section 2133.34 of the Revised Code, and shall not
1035 prevent or attempt to prevent, or unreasonably delay or attempt
1036 to unreasonably delay, the transfer of the patient to the care
1037 of a physician who, or a health care facility that, is willing
1038 and able to so comply or allow compliance.

1039 **Sec. 2133.45.** In the absence of actual knowledge to the
1040 contrary and if acting in good faith, an attending physician,
1041 other health care professional, emergency medical services
1042 personnel, or health care facility may assume that a
1043 MOLST form complies with sections 2133.31 to 2133.45 of the
1044 Revised Code and is valid and they will not be subject to civil
1045 liability for acting in accordance therewith.

1046 **Sec. 2133.46.** Not later than sixty months after the
1047 effective date of this section, the director of health shall
1048 appoint a MOLST task force to perform a five-year review of
1049 medical orders for life-sustaining treatment and the MOLST form.
1050 Task force members shall be, or represent, persons or government
1051 entities that have experience with medical orders for life-
1052 sustaining treatment or the MOLST form. Not later than seventy-
1053 two months after the effective date of this section, the task
1054 force shall submit a report of its findings to the general
1055 assembly in accordance with section 101.68 of the Revised Code.

1056 Members of the task force shall serve without compensation,
1057 but may be reimbursed for necessary expenses.

1058 **Sec. 3795.03.** Nothing in section 3795.01 or 3795.02 of the
1059 Revised Code shall do any of the following:

1060 (A) Prohibit or preclude a physician, certified nurse
1061 practitioner, certified nurse-midwife, or clinical nurse
1062 specialist who carries out the responsibility to provide comfort

1063 care to a patient in good faith and while acting within the
1064 scope of the physician's or nurse's authority from prescribing,
1065 dispensing, administering, or causing to be administered any
1066 particular medical procedure, treatment, intervention, or other
1067 measure to the patient, including, but not limited to,
1068 prescribing, personally furnishing, administering, or causing to
1069 be administered by judicious titration or in another manner any
1070 form of medication, for the purpose of diminishing the patient's
1071 pain or discomfort and not for the purpose of postponing or
1072 causing the patient's death, even though the medical procedure,
1073 treatment, intervention, or other measure may appear to hasten
1074 or increase the risk of the patient's death;

1075 (B) Prohibit or preclude health care personnel acting under
1076 the direction of a person authorized to prescribe a patient's
1077 treatment and who carry out the responsibility to provide
1078 comfort care to the patient in good faith and while acting
1079 within the scope of their authority from dispensing,
1080 administering, or causing to be administered any particular
1081 medical procedure, treatment, intervention, or other measure to
1082 the patient, including, but not limited to, personally
1083 furnishing, administering, or causing to be administered by
1084 judicious titration or in another manner any form of medication,
1085 for the purpose of diminishing the patient's pain or discomfort
1086 and not for the purpose of postponing or causing the patient's
1087 death, even though the medical procedure, treatment,
1088 intervention, or other measure may appear to hasten or increase
1089 the risk of the patient's death;

1090 (C) Prohibit or affect the use or continuation, or the
1091 withholding or withdrawal, of life-sustaining treatment, CPR, or
1092 comfort care under Chapter 2133. of the Revised Code;

1093 (D) Prohibit or affect the provision or withholding of
1094 health care, life-sustaining treatment, or comfort care to a
1095 principal under a durable power of attorney for health care or
1096 any other health care decision made by an attorney in fact under
1097 sections 1337.11 to 1337.17 of the Revised Code;

1098 (E) Affect or limit the authority of a physician, a health
1099 care facility, a person employed by or under contract with a
1100 health care facility, or emergency ~~service~~ medical
1101 services personnel to provide or withhold health care to a
1102 person in accordance with reasonable medical standards
1103 applicable in an emergency situation;

1104 (F) Affect or limit the authority of a person to refuse to
1105 give informed consent to health care, including through the
1106 execution of a durable power of attorney for health care under
1107 sections 1337.11 to 1337.17 of the Revised Code, the execution

1108 of a declaration under sections 2133.01 to 2133.15 of the
1109 Revised Code, the completion of a MOLST FORM under sections
1110 2133.30 to 2133.47 of the Revised Code, or authorizing the
1111 withholding or withdrawal of CPR under sections 2133.21
1112 to ~~2133.26~~ 2133.29 of the Revised Code.

1113 **Sec. 4730.09.** (A) Under a physician supervisory plan
1114 approved under section 4730.17 of the Revised Code, a physician
1115 assistant may provide any or all of the following services
1116 without approval by the state medical board as special services:

1117 (1) Obtaining comprehensive patient histories;

1118 (2) Performing physical examinations, including audiometry
1119 screening, routine visual screening, and pelvic, rectal, and
1120 genital-urinary examinations, when indicated;

1121 (3) Ordering, performing, or ordering and performing
1122 routine diagnostic procedures, as indicated;

1123 (4) Identifying normal and abnormal findings on histories,
1124 physical examinations, and commonly performed diagnostic
1125 studies;

1126 (5) Assessing patients and developing and implementing
1127 treatment plans for patients;

1128 (6) Monitoring the effectiveness of therapeutic
1129 interventions;

1130 (7) Exercising physician-delegated prescriptive authority
1131 pursuant to a certificate to prescribe issued under this
1132 chapter;

1133 (8) Carrying out or relaying the supervising physician's
1134 orders for the administration of medication, to the extent
1135 permitted by law;

1136 (9) Providing patient education;

1137 (10) Instituting and changing orders on patient charts;

1138 (11) Performing developmental screening examinations on
1139 children with regard to neurological, motor, and mental
1140 functions;

1141 (12) Performing wound care management, suturing minor
1142 lacerations and removing the sutures, and incision and drainage
1143 of uncomplicated superficial abscesses;

1144 (13) Removing superficial foreign bodies;

1145 (14) Administering intravenous fluids;

1146 (15) Inserting a foley or cudae catheter into the urinary
1147 bladder and removing the catheter;

1148 (16) Performing biopsies of superficial lesions;

1149 (17) Making appropriate referrals as directed by the
1150 supervising physician;

1151 (18) Performing penile duplex ultrasound;

1152 (19) Changing of a tracheostomy;

1153 (20) Performing bone marrow aspirations from the posterior
1154 iliac crest;

1155 (21) Performing bone marrow biopsies from the posterior
1156 iliac crest;

1157 (22) Performing cystograms;

1158 (23) Performing nephrostograms after physician placement of
1159 nephrostomy tubes;

1160 (24) Fitting, inserting, or removing birth control devices;

1161 (25) Removing cervical polyps;

1162 (26) Performing nerve conduction testing;

1163 (27) Performing endometrial biopsies;

1164 (28) Inserting filiform and follower catheters;

1165 (29) Performing arthrocentesis of the knee;

1166 (30) Performing knee joint injections;

1167 (31) Performing endotracheal intubation with successful
1168 completion of an advanced cardiac life support course;

1169 (32) Performing lumbar punctures;

1170 (33) In accordance with rules adopted by the board, using
1171 light-based medical devices for the purpose of hair removal;

1172 (34) Administering, monitoring, or maintaining local
1173 anesthesia, as defined in section 4730.091 of the Revised Code;

1174 (35) Applying or removing a cast or splint;

1175 (36) Inserting or removing chest tubes;

1176 (37) Prescribing physical therapy or referring a patient to
1177 a physical therapist for the purpose of receiving physical
1178 therapy;

1179 (38) Ordering occupational therapy or referring a patient
1180 to an occupational therapist for the purpose of receiving
1181 occupational therapy;

1182 (39) Taking any action that may be taken by an attending
1183 physician under sections 2133.21 to ~~2133.26~~ 2133.29 of the
1184 Revised Code, as specified in section ~~2133.211~~ 2133.23 of the
1185 Revised Code;

1186 (40) Determining and pronouncing death in accordance with
1187 section 4730.092 of the Revised Code;

1188 (41) Admitting patients to hospitals in accordance with
1189 section 3727.06 of the Revised Code;

1190 (42) Performing other services that are within the
1191 supervising physician's normal course of practice and expertise,
1192 if the services are included in any model physician supervisory
1193 plan approved under section 4730.06 of the Revised Code or the
1194 services are designated by the board by rule or other means as
1195 services that are not subject to approval as special services.

1196 (B) Under the policies of a health care facility, the
1197 services a physician assistant may provide are limited to the
1198 services the facility has authorized the physician assistant to
1199 provide for the facility. The services a health care facility
1200 may authorize a physician assistant to provide for the facility
1201 include the following:

1202 (1) Any or all of the services specified in division (A) of
1203 this section;

1204 (2) Assisting in surgery in the health care facility;

1205 (3) Any other services permitted by the policies of the
1206 health care facility, except that the facility may not authorize
1207 a physician assistant to perform a service that is prohibited by
1208 this chapter.

1209 **Section 2.** That existing sections 2133.02, 2133.21,
1210 2133.211, 2133.23, 2133.24, 2133.25, 2133.26, 3795.03, and
1211 4730.09 and section 2133.22 of the Revised Code are hereby
1212 repealed.

1213

OHIO Medical Orders for Life Sustaining Treatment Form Sec. 2133.31. (MOLST FORM)

<p>HIPAA PERMITS DISCLOSURE OF MOLST TO OTHER HEALTH CARE PROFESSIONALS AS NECESSARY</p> <p><u>This form supersedes all previously signed MOLST forms.</u> Comfort measures will be provided regardless of level or intervention chosen.</p>	Last Name/First/Middle Initial	
	Date of Birth	
	Last 4 SSN	Gender M F

A. CARDIOPULMONARY RESUSCITATION (CPR): Person has no pulse and/or is not breathing. Check only one:

- Attempt Resuscitation/CPR.** With full treatment and intervention including intubation, advanced airway interventions, mechanical ventilation, defibrillation, and cardioversion as indicated. ~~Transfer to hospital and to intensive care if indicated.~~
- Do NOT Attempt Resuscitation/DNR (No CPR):**
When not in cardiopulmonary arrest, follow orders in Sections B, and C.

B. MEDICAL INTERVENTIONS: Person has a pulse and/or is breathing. Check only one:

Comfort Measures Only. Use medication by any route, positioning, wound care and other measures to relieve pain and suffering. Use oxygen, suction, and manual treatment of airway obstruction as needed for comfort. *Transfer to the appropriate level of care setting to provide comfort care measures.*
 Additional Orders/Instructions: _____

Limited Additional Interventions. Treatment plan: Provide basic medical treatment: Includes care described above. Use medical treatment, antibiotics, intravenous fluids, and cardiac monitor as indicated. Do not use intubation, advanced airway interventions, or mechanical ventilation. May use noninvasive airway support (e.g., CPAP, BiPAP). *Transfer to hospital if indicated; generally avoid intensive care.*
 Additional Orders/Instructions: _____

Full Intervention. Treatment Plan: Full treatment including life-supporting measures: Includes care described above. Use intubation, advanced airway interventions, mechanical ventilation, defibrillation and cardioversion as indicated. *Transfer to hospital and to intensive care if indicated.*
 Additional Orders/Instructions: _____

C. ARTIFICIALLY ADMINISTERED NUTRITION / HYDRATION:

The administration of nutrition and/or hydration, whether orally or by invasive means, shall occur except in the event another condition arises which is life-limiting or irreversible in which the nutrition and/or hydration becomes a greater burden than benefit to patient. **Always offer by mouth, if feasible. Check only one:**

<input type="checkbox"/> Long-term artificial nutrition by tube feeding
<input type="checkbox"/> Defined trial period of artificial nutrition by tube feeding
<input type="checkbox"/> Artificial nutrition by tube feeding to diminish pain or discomfort
<input type="checkbox"/> No artificial administered nutrition by tube feeding
Goals of Care / Additional order / instructions:

OHIO Medical Orders for Life Sustaining Treatment Sec. 2133.31. (MOLST FORM)

Information for individual named on this form - Name: _____	DOB: _____
---	------------

D. AUTHORIZATION NAME(S) AND SIGNATURE(S) BELONG(S) TO (CHECK ONLY ONE):

- Patient
- Guardian (as in this document and section RC 2133.01, guardian is appointed by a probate court)
- Healthcare Power of Attorney (Attach HCPOA if signed)
- Living Will (Attach LW if signed)
- Next of Kin as designated by section 2133.08(B) of the Revised Code
 - Spouse
 - Majority of adult children (available within reasonable time)
 - Parents
 - Majority of adult siblings (available within reasonable time)
 - Other nearest related adult (available within reasonable time)
- Parent, Guardian, or Legal Custodian of a Minor

Name (print): _____ Phone Contact: _____

Signature(s) (mandatory): _____ Date Signed: _____

E. SIGNATURE OF ISSUING PRACTITIONER

My signature in this section indicates to the best of my knowledge that these orders are consistent with the patient's current medical condition and preferences as indicated by the patient's advance directive(s) previous and/or recent discussions with the person identified in Section D above.

Name of Practitioner (print): _____

Signature of Practitioner (mandatory): _____

Date Signed: _____ License #: _____ Phone #: _____

SIGNATURE OF FORM PREPARER

Name of Form Preparer and Credentials (print): _____ Phone #: _____

Signature of Form Preparer: _____ Date Signed: _____

F. Review of MOLST

A MOLST FORM may be revoked at any time and in any manner that communicates the intent to revoke. A MOST FORM does not expire unless revoked.

Review of this MOLST FORM

Review Date And Time	Reviewer	Location of Review	Review Outcome
			<input type="checkbox"/> No Change <input type="checkbox"/> Voided and New form Completed
			<input type="checkbox"/> No Change <input type="checkbox"/> Voided and New form Completed
			<input type="checkbox"/> No Change <input type="checkbox"/> Voided and New form Completed

<p>SEND FORM WITH PERSON WHENEVER TRANSFERRED OR DISCHARGED Use of original form is strongly encouraged. Photocopies and faxes of signed MOLST forms are legal and valid.</p>

OHIO MOLST FORM INFORMATIONAL SUPPLIMENT

NOTICE TO ADULT NAMED ON THIS FORM:

The MOLST FORM is a medical order form that documents important health decisions regarding your care. You or your representative's (Agent, Guardian, Next of Kin, or Legal Custodian) input and approval of the use of this form is needed before it becomes a valid document. Below is provided as an informational supplement to the MOLST FORM. Before executing this document with your practitioner, you should know these facts.

The MOLST FORM is **always voluntary**. This form is usually for persons who are frail and/or experiencing advanced or progressing illness. There is no requirement that you, or your legal representative (guardian, agent, next of kin, or legal custodian) execute a MOLST FORM. You will still receive treatment whether or not this form is executed.

These medical orders are based on your medical condition and advance directives or preferences at the time the orders are issued. Any section not completed does not invalidate the form and implies full treatment for that section. MOLST records your wishes for medical treatment in your current state of health. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and the form can be changed to reflect your new wishes at any time. However, no form can address all the medical treatment decisions that may need to be made. An advance directive, such as the Living Will and/or Ohio Health Care Power of Attorney, is recommended for all competent adults, regardless of their health status. An advance directive allows you to document in detail your future health care instructions and/or name a Health Care "Attorney-in-Fact" or "Agent" to speak for you if you are unable to speak for yourself.

You will be treated with dignity and respect and attention shall be given to your medical needs. The duty of medicine is to care for you even when you cannot be cured. Moral judgments about the use of technology to maintain life shall reflect the inherent dignity of human life, the duty of medical care, medical standards of practice, and your individual wishes. Use of the MOLST FORM recognizes the allowing of a natural death to occur. MOLST does not allow for active euthanasia or physician assisted suicide.

Implementing MOLST

When signed, this form supersedes all previously signed MOLST forms. If a health care provider or facility cannot comply with the orders due to policy or personal ethics, the provider or facility must arrange for your transfer to another provider or facility and provide at least requested care in the meantime.

Reviewing the MOLST

This form should be reviewed periodically, such as when you are transferred from one care setting or care level to another or there is a substantial change in your health status. A new MOLST FORM should be completed if your wishes to make a substantive change to your treatment goal(s) (e.g., reversal of a prior directive). A MOLST FORM shall be retained in the medical chart per section 2133.35.

Revoking the MOLST

This form may be revoked at any time and in any manner that communicates the intent to revoke. If you are under eighteen years of age, your parent, guardian, or legal custodian, may revoke a MOLST from at any time and in any manner that communicates the intent to revoke. A revoked MOLST FORM shall be retained in your medical record.

Portability of the MOLST FORM

This form shall be sent with you whenever you are transferred or discharged. Use of the original form is strongly encouraged, however, photocopies and faxes of signed MOLST FORMs are legal and valid. HIPAA permits disclosure to health care professionals as necessary for treatment.



MOLST Legislation
131st General Assembly
2015 – 2016

RE: Changes in the 131st version vs. the 130th version (SB347)

Changes in the language occurred primarily:

1. Due to the review and comments by Ohio Bureau of Public Safety around EMS specific definitions and augmenting language around protection from civil suits and immunity for EMS in specific situations related to providing or not providing life-sustaining treatment and the identification of a MOLST order.
2. Review and reaction by the National POLST Paradigm advisory committee. The committee reviews mature and developing POLST activities and forms across the US with the intention of sharing knowledge regarding the implementation of elements addressed in a POLST form. The advisory committee made a number of comments on the development of the form.
3. Legal review and communications with two outside attorneys that work with Elder Law and Estate planning issues.
4. Miscellaneous comments from health care providers.

Line 186 = Definition piece, removing “medical” in most locations where Emergency Services Personnel is listed.

Lines 189 – 196 = New definitions for EMS personnel.

Line 207 = Introduction of MOLST FORM title.

Line 224 and 230 = Removal of “medical”.

Line 265, 453, 468, 470, and 475 = Removal of “medical”.

Line 492 = Spelling out the four major categories who may act for a patient whether the patient has identified or the courts or ORC identifies.

Line 518, and 519 = Removal of “medical”.

Line 538 = A PA or CNP, CNS must act within their scope of practice which is defined in statute as well they need to have a practicing agreement with their physician supervisor and also identifies this as an allowed activity.

Line 556 and 558 = Changed the word Medically to Artificially. The attorneys suggest this change due to the known terminology already in use and defined in existing Ohio statute (advance directives, ORC 2133 & 1337).

Lines 566 – 720 = Outlines the form. Input here was provided by the NPPTF and the two attorneys assisted in how to spell out the language in statute to match the elements of the form. The draft form is now in a more finished structure. Below are elements and rationale for the form elements.



MOLST Form General Principles:

- **Keep the order set to a two-page document. Remember this is a physician order form that will be used by other healthcare providers to review and honor those orders for the patient.**
- **Section B has elements that fall in sequential order and build upon each other moving from top to bottom (Comfort, Limited, to Full Interventions). This is opposite from the previous draft but the order is felt to be more logical in processing the information.**
- Lines 579 – 581 = Identity of the patient
- Lines 583 – 584 = Acknowledgment of the ability to share healthcare information with other healthcare professionals to treat the patient appropriately.
- Lines 591 – 598 = CPR is first on the form. This help EMS and first responders locate critical information quickly regarding whether or not to provide CPR.
- Lines 605 - 606 = Identifies medical interventions categories.
- Lines 608 – 615 = Comfort Measures are always a basic set of principles for healthcare providers to follow. Language is expanded here regarding transferring to the “appropriate level of care” setting to provide comfort care measurers. At times, a higher level of care is needed to provide the care necessary to provide comfort care. This may be for a short or longer duration due to the medical intervention needed. Once a patient’s comfort level is manageable they should then be moved to the next “appropriate” level of care.
- Additional orders or instructions will be provided as necessary. This helps to individualize the care for the patient related specifically to the category of care ordered.
- Lines 617 – 626 = Limited Additional Interventions. Under this category the healthcare practitioners will address antibiotic use and needs. Antibiotics had a separate category in the last draft legislation and form. This is an area that most states, using a related form, are changing specific sections regarding ATBs and inserting them into this category to be addressed. Part of the rationale was related to the medical considerations that go into choosing and determining when, how and what type of ATB to use for certain situations.
- Language related to transferring to higher level setting is also adjusted. “Transfer to hospital if indicated, generally avoid intensive care.” Interventions available today may necessitate the need to transfer to a higher level care setting but the instruction certainly encourages more discussion and decision making around the use of expensive environments if not appropriate for the goals being set.
- Again, additional orders and instruction can assist in individualizing the care for the patient.
- Lines 628 – 635 = Full Interventions. Builds on the other two areas of interventions. Language as it was in the previous legislation.



- Lines 638 – 652 = Artificially Administered Nutrition / Hydration. As discussed above, using the term “Artificially” to coincide with the same terminology used elsewhere in Ohio statute. Language here also coincides with language found in the Ohio statute around Living Wills and Healthcare Power of Attorney. It is limiting when and if the patient has a life-limiting or irreversible condition. There are four choices as well as a section to describe the Goals of care and additional orders and or instructions.
- This area is specifically related to tube feedings. The NPPTF and other physician’s in our task force felt that this area is to be used specifically to address tube feedings. Other types of hydration such as IV therapy are more appropriately addressed in the medical interventions that would be addressed under Section B above.
- Line 654 = Start of page 2 with title of form.
- Line 657 and 658 = Identification of the individual the form is addressing.
- Line 660 – 676 = Identifies who is Authorized to make decisions for this patient. It is in sequential order as prescribed in the ORC. However, it also identifies several other items that would logically be considered especially as decision making would move away from the patient to another entity.
- Health Care Power of Attorney, if one exist, attach if signed. Living Will, if one exist, attach if signed. If there is not a HCPOA or LW, this should prompt the health care team to ask about the patient’s desire to complete these documents as well.
- Lines 678 – 684 = Signature of the individual making decisions for the patient.
- Lines 687 – 699 = Signature of the practitioner that has authority to write and sign this order. The practitioner is acknowledging that the patient’s condition warrants such orders and that the orders are in line with the care the patient prefers to address their current and future needs.
- Lines 701 – 706 = Signature of Form Preparer is for the individual that has reviewed the elements of the form, identified specific parameters the issuing practitioner and health care team has discussed in indicated as appropriate given the patient’s current condition, the patient’s preferences, and the expected outcomes. The preparer identifies themselves here on the form as well so if there are any questions then other health care providers can contact them.
- Lines 708 – 715 = Review of the form as well as language to revoke. Any significant change would require a rewrite of the form.
- Lines 716 – 721 = Statements related to discharge and use of form or copies of form.
- Lines 726 – 796 = This language is the third page included and is an informational piece to be used specifically to educate the patient and family or significant other regarding the use of the MOLST. Working with many partners in Ohio, there was a strong desire to include such a form and information but not to embed within the order document itself. On the development of the form document, this sits as a third page. It is not mandatory that it accompanies the form but should be use to enrich and provide an additional piece of information to support the document.



- Lines 805 – 809, 2133.33 = Identifies the type of patient one would expect to utilize a MOLST FORM. Definition broadly accepted.
- Lines 857 – 888, 2133.34 = Rewritten from past legislation. Attorneys felt the previous language was confusing and convoluted. This language is offered as being much simpler to understand and it is believed it gets to the same points of interest. Specifically addresses who is able to sign the document.
- Lines 876 – 884 = Addresses minors and identifies language in the Federal Statute that specifies care and treatment around infants and parameters to follow around withdrawing of life-sustaining treatment.
- Lines 885 – 888 = This section specifically addresses the issuing practitioner delegating authority to another person to assist in completing the form (Form Preparer).
- Lines 889 – 906 = Removed old 2133.35, this section addressed now in 2133.34. Sections now renumbered sequentially due to this change.
- Lines 927 – 930 = EMS should retain a copy of the MOLST Form if it is giving direction used during transportation.
- Lines 941 – 956 = 2133.39, Provides protective language around looking for and trying to find a MOLST FORM in a situation where EMS is called. This is similar to language in the current DNR statute. EMS should not be held responsible for providing their defined services when and if they are not knowledgeable about a MOLST order. Replaces lines 958 – 976.
- Lines 977 – 990 = 2133.40, Addresses protective language for providers around a MOLST form, similar to the DNR Protocol language in current ORC. Also removes “person” and replaces with “personnel”.
- Lines 1039 – 1045 = 2133.45, Addresses protective EMS language.

012715, jwl/mca/proposed changes to MOLST legislation

HB 588/SB 347- OHIO MOLST - Frequently Asked Questions

What is a MOLST?

MOLST is a *process*. The MOLST is not just a form but a conversation, it is designed to improve the quality of care people receive at the end of life by turning a patient's goals and preferences for care into medical orders. MOLST is based on communication between the patient (or other legally designated medical decision-maker) and health care professionals that ensures that patients understand the decisions they are making.

What do the letters M.O.L.S.T stand for?

MOLST stands for Medical Orders for Life-Sustaining Treatment.

Who can complete and sign a MOLST form?

Many people may be involved in helping a patient clarify goals of care. A health care professional, social worker, nurse, or chaplain commonly may assist in the education and transcription of a MOLST form in collaboration with the patient or surrogate to reflect the goals of care. A valid MOLST form must be signed, dated with contact information for the signing medical practitioner, who is either a physician, nurse practitioner or physician's assistant.

Is there an age restriction for use of MOLST?

No. Parents or other legal surrogates of minor children who are very ill can obtain a MOLST.

Can completion of the MOLST form be mandated to better understand patient wishes?

Use of the MOLST form is **voluntary** and can be revoked once completed. Under the proposed legislation, the MOLST must also be signed by the patient or surrogate in order to be valid.

How does a MOLST help patients?

Completion of a MOLST turns the wishes of patients into actionable medical orders that are portable from one care setting to another. A MOLST ensures that patients understand the decisions they are making by encouraging discussions between the patient or other legally designated medical decision-maker and health care professionals.

How does a MOLST help healthcare professionals?

It assists health care professionals in discussing and developing treatment plans that reflect the patient's wishes and helps physicians, nurses, health care facilities, emergency personnel and first responders honor that patient's wishes.

What does a MOLST form look like?

It is important to use a uniform MOLST form so that the document becomes easily recognized, understood, and implemented. A MOLST form is often brightly colored, medical order form used to write orders indicating life-sustaining and other treatment wishes for seriously ill patients.

Do other states have MOLST or similar laws in place?

Twenty-one states, including West Virginia, Pennsylvania, Maryland and Tennessee have enacted laws similar to the “POLST Paradigm Initiative”, a national initiative developing guidelines for MOLST type laws (www.polst.org). Twenty-four states are in the process of development. In some states, the forms resulting from the law’s enactment are called Physician Orders for Life Sustaining Treatment (POLST). In Ohio, the program would be called MOLST to convey that other healthcare professionals besides physicians can write the orders.

Who would benefit most from using the MOLST?

Use of the MOLST form is most appropriate for seriously ill persons with life-limiting or terminal illnesses who want to express their wishes about a variety of treatments.

How do healthcare professionals determine whether a person is seriously ill with a life-limiting or terminal illness?

To determine whether a MOLST form should be considered, clinicians should ask themselves, "Would I be surprised if this person died in the next year?" If the answer is "No, I would not be surprised," then a MOLST form is appropriate to consider.

Should patients with stable medical conditions use the form?

Unless it is the patient's preference, use of the MOLST form to define and/or limit treatment is generally not considered appropriate for persons with stable medical or functionally disabling problems who have many years of life expectancy.

Can a MOLST form be used for persons with significant physical disabilities, developmental disabilities, and/or severe persistent mental illness?

The MOLST may be appropriate for these individuals who can participate in decision making. Just as for non- disabled or mentally ill individuals, this may be most appropriate when they become seriously ill or develop life-limiting or terminal illnesses.

What happens if a patient does not have a MOLST?

In the absence of a MOLST form or other state-specific do-not-resuscitate orders, patients will receive advanced cardiac life support, including CPR, endotracheal intubation, and defibrillation, by emergency medical personnel based on standard medical practice and protocols.

What medical actions are covered by a MOLST?

A MOLST form is designed to express the individual's preferences for levels of treatment and can indicate either full treatment including resuscitation attempts or can be used to limit those interventions that are not desired by the individual in several other identified categories of care.

How should the form be used by healthcare facilities?

In a health care facility, the form should be the first document in the clinical record. It should be recognized as a set of medical orders, to be implemented with the same procedure as all medical orders. In a non-institutionalized setting (such as a home), the form should be placed in a location recognized by emergency medical personnel, usually on the side or front of the refrigerator.

How is the form transferred from one setting to another?

The form (original or copy) must be transferred with the individual. A health care facility should keep a copy in the permanent medical record upon discharge.

Does a MOLST form replace traditional Advance Directives like the Living Will and Healthcare Power of Attorney documents?

No. Traditional Advance Directives are recommended for all adults in order to appoint a surrogate and assure that their values are expressed. When available, any and all Advance Directives should accompany a MOLST form as together they may help in identifying the surrogate decision maker and may identify the patient's values. However, these documents are not required for the MOLST to be valid. The most recently completed document would be the guide in decision-making regarding care.

What is the difference between a DNR and MOLST?

The DNR only specifies care related to cardiopulmonary resuscitation (CPR). MOLST will include a section that will specify a person's preferences regarding resuscitation plus other sections that address a variety of healthcare wishes.

Does the existence of a MOLST form mean that the patient has made a decision to forego cardiopulmonary resuscitation (CPR) and has a Do Not Resuscitate (DNR) order?

No. The MOLST form is based on ensuring goal-based discussions that integrate patient preferences and informed medical decision-making. It is not based on limiting medical interventions. One can specify full aggressive measures if that is their preference.

Does a DNR order imply that a patient does not want treatment?

No. Do Not Resuscitate (DNR) does not mean Do Not Treat. A well-informed patient may recognize the futility of CPR in the presence of advanced or serious illness and may request a DNR order. However, based on his/her goals for care, the patient may wish to receive further

treatment for other conditions. The use of a MOLST form will help make the patient's wishes more explicitly clear to caregivers.

What happens to current DNRs in Ohio if this legislation is passed?

The DNR Protocol in Ohio that consists of DNR Comfort Care and DNR Comfort Care Arrest will be replaced by the MOLST, i.e. use of the current Protocol would end. However, DNR orders written for patients before the enactment of MOLST would still be honored. Efforts will be made to have all individuals who currently have a DNRCC or DNRCC-Arrest form update their wishes using the MOLST.

Can healthcare professionals and patients use the MOLST form in Ohio, if this legislation isn't enacted?

A MOLST program requires collaboration and involvement from health care, ethics and legal professionals, hospitals, long term care, hospice, and emergency medical services. Currently there is no legal requirement that medical professionals and medical facilities honor a MOLST form.

What other laws are impacted by the passage of the MOLST legislation?

No other laws are changed due to this MOLST legislation. Current decision making parameters stay the same, regardless of MOLST. Healthcare personnel and facilities still need to consider the guidance provided in Advance Directives when patients become terminally ill or are in a permanent unconscious state.

What if a patient is incapacitated, can the MOLST be use to provide guidance?

Decision making when the patient is incapacitated would follow the same procedures and decision making parameters as defined in Ohio law and within the bounds of the standards of medical practice. The MOLST is only a tool used to allow these orders to be transferred from one setting to another and doesn't not change how those decisions are made or how those orders are written otherwise.

Key Elements for Proposed MOLST Legislation November 1, 2014

The purpose of SB347 and HB588 is to improve quality of patient care and reduce fragmentation of medical care by creating a system that identifies patient's wishes regarding medical treatment on a standardized form that communicates *medical orders* issued by a physician that move with the patient from one setting to another.

The MOLST is not an advanced directive and does not alter current law in Ohio concerning advanced directives. The MOLST supports the completion of advance directives, however, clinical experience and research demonstrate that advance directives are not sufficient alone to assure that those who suffer from serious illnesses or frailty will have their preferences for treatment honored unless additional preparation is taken.

The only Ohio law to be changed with this legislation is to sunset Ohio's Do Not Resuscitate (DNR) form and to replace that document with the MOLST which will:

- *Incorporates Cardiopulmonary Resuscitation orders.* Replaces the current DNR CC protocol. Unlike the DNR CC protocol, the MOLST will encourage and facilitate more communication between the patient and medical staff about end of life decisions, while allowing the patients and medical professionals more flexibility to make these considerations as patients' medical conditions change. The MOLST is completed for patients who have serious, progressive, chronic illnesses.
- *Be patient-centered and patient-driven.* The uniform MOLST form will allow the patient to better understand and drive his or her own end of life care, including those decisions regarding the administration of life-sustaining treatment.
- *Make clear that no one is required to complete a MOLST form.* The MOLST form is a way to uniformly document and transfer end of life medical orders. Just like any medical order, a patient or decision-maker should discuss and understand the options carefully with his or her medical professional. No one is required to complete a MOLST form, and this statement will be included on the form itself. Further, nothing in the legislation, or on the MOLST form, will create a bias in favor of more aggressive or less aggressive forms of treatment.
- *Assure that the MOLST form is transferrable across settings of care.* A MOLST form will be transferable across all settings, including emergency settings. A copy of a MOLST form is equally valid as an original, and medical professionals will be required to notify other medical professionals if they know a patient or decision-maker has completed a MOLST form.
- *Provide immunity to all health care workers who honor the medical orders outlined in a MOLST form, if acting under their scope of practice.* Like current DNR law, new MOLST law will protect health care personnel from civil and criminal liability who follow end of life medical orders outlined in a patient's MOLST form.

Legislation currently in place which will not be changed by this legislation:

- Ohio law allows an individual to make informed decisions about his/her medical care including refusing any and all treatment which aims to prolong life (ORC § 2133)
- Ohio law allows an individual to name an agent (attorney in fact) who would make informed medical decisions for the individual at his/her direction (ORC §1337.11-1337.17)
- Ohio law limits when an agent can authorize medical personal to withdraw artificially or technologically supplied nutrition and hydration (ORC § 2133)
- When an individual has not named an agent for health care decision making, Ohio law contains a priority list of who can make informed medical decisions when he/she is unable to make such decisions (ORC § 2133.08(B) & § 1337.16 (D)(1)(b)(i))