

How MOLST Fits Within Ohio Law Regarding End-of-Life Health Care Decision-Making

Power of Attorney for Health Care

1. Any adult in Ohio may sign a power of attorney for health care, designating an attorney-in-fact, who will make health care decisions for the principal if he or she cannot make his or her own decisions at some point in time in the future.

* This document may contain comments or guidance from the principal. These comments are *not medical orders*.

Living Will Declaration

2. Any adult in Ohio may sign a living will declaration.

* This document addresses the patient's health care if the patient (a) is in a terminal condition or (b) is in a permanently unconscious state, and will not regain the ability to make his or her own health care decisions.

* This document is *not medical orders*; rather, it is an advance directive, applicable under the specific circumstances described in the declaration - requesting medical orders that will allow the patient to die naturally, with comfort care.

MOLST Process

3. In contrast, the proposed MOLST process *results in medical orders*.

* The MOLST process is not appropriate for all adults in Ohio. It applies to patients who are in the final phase of their lives – persons with advanced progressive illness or frailty.

* MOLST involves a conversation between a physician and patient, and shared decision-making about the patient's current health care. MOLST results in medical orders, that address the patient's current condition and treatment options. The orders are recorded on a MOLST form.

When Patient is Mentally Competent

4. As long as a patient is mentally competent, there can be no conflict between these documents, because the patient is making all decisions and may change the treatment plan at any time.

When Patient is No Longer Competent

5. If the patient cannot make his or her own decisions, then the attorney-in-fact must step in and engage in shared decision-making with the physician.

- * The attorney-in-fact considers indications and evidence of the patient's intent,
 - *including guidance written by the principal into the power of attorney for health care; and/or
 - *an existing MOLST form signed by the patient; and/or
 - *discussions with the patient about his or her wishes; and/or
 - *other similar evidenceand may decide to leave an existing MOLST form in place or to sign a new MOLST form, based on the patient's current condition and treatment options.

* Under existing Ohio law, an attorney-in-fact may change a decision that was made by the patient because the patient's condition has changed or treatment previously consented to has not been effective. The proposed MOLST statutes do not change this law.

Implementing the Living Will Declaration

6. If the patient cannot make his or her own decisions, and the specific circumstances described in the patient's living will declaration apply (*i.e.*, the patient is in a terminal condition or a permanently unconscious state) then the attorney-in-fact will engage in a conversation with the patient's physician, which may result in the shared decision to sign a new MOLST containing medical orders that carry out the living will declaration.

Withholding or Withdrawal of Life-Sustaining Treatment

7. All existing limitations on the ability of an attorney-in-fact or a patient's next of kin to withhold or withdraw life-sustaining treatment from a patient will remain in place if the proposed MOLST statutes are passed.

If No Power of Attorney for Health Care Was Signed

8. If a patient did not sign a power of attorney for health care, then according to existing Ohio statutes, the patient's legally authorized next of kin will engage in the decision-making process on behalf of the patient.

Conclusion

9. A living will declaration and a power of attorney for health care provide guidance, and a substitute decision-maker if needed, to enable a physician to issue appropriate medical orders. MOLST, on the other hand, is the actual medical orders. The MOLST process essentially is (1) a tool for starting and continuing conversations and (2) a uniform system for recording medical orders, so that they move with the patient, are easy to find, and are more likely to be followed. The MOLST orders, like all medical orders, are changeable, adaptable, and should be reviewed regularly to make sure they represent in-the-moment decision-making.