

## Key Elements for Proposed MOLST Legislation

### April 12, 2016

The purpose of Medical Orders for Life-Sustaining Treatment (MOLST) is to allow a terminally ill individual use their advance directives to help drive their medical care as they move from one health setting to another. Using a MOLST is always *VOLUNTARY* and is developed following conversations with a health care provider who then completes the *medical orders (MOLST)* with the **approval** of the patient or their representative.

MOLST is not an advanced directive and does not alter current law in Ohio concerning advanced directives. MOLST is a form which facilitates communication and continuity of care by demonstrating that a dialog has occurred regarding the terminal patient's direction of care. Legislation is needed so the medical orders can be transportable from one health care setting to another. The first section of the MOLST addresses CPR. This would replace Ohio's 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. Due to technology and evolution in medical care, the MOLST allows the patient and medical professionals more flexibility to make these considerations as a patient's medical condition changes than the current DNR Protocol.

The only Ohio law to be changed with this legislation is to sunset the DNR form and to replace that form with the MOLST form which will:

- *Make clear that no one is required to complete a MOLST form.* The MOLST form is VOLUNTARY and 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.
- *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.
- *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.
- CMS, beginning January 2016, has approved reimbursement for end of life care consultation. When appropriate, the MOLST would document and communicate orders in a uniform approach throughout Ohio.

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 D1bi)