

# Maryland MOLST FAQs



Maryland MOLST Training Task Force

October 2017

## **Frequently Asked Questions About Maryland MOLST**

### **What does “MOLST” stand for?**

“MOLST” is an acronym that stands for Medical Orders for Life-Sustaining Treatment.” It is the same concept as the “POLST” (Physician’s Orders for Life-Sustaining Treatment) paradigm, except that the word “Physician” is changed to “Medical.”

### **When must a MOLST form begin to be used?**

MOLST forms must be completed for newly admitted patients during the admission process in all assisted living programs, home health agencies, hospices, kidney dialysis centers, and nursing homes. Hospitals are required to complete MOLST forms by discharge for their inpatients that are being transferred to the care of another hospital or an assisted living program, hospice, kidney dialysis center, home health agency, or nursing home.

The MOLST form must be recognized by all health care providers as a form containing valid medical orders.

### **What is the difference between the Maryland MOLST approach and Maryland’s existing Life-Sustaining Treatment Options (LSTO) process?**

The MOLST approach and the LSTO process are virtually identical. It closely follows the former “Instructions on Current Life-Sustaining Treatment Options” (LSTO) form. The difference is that treatment options on the MOLST form represent valid and enduring medical orders.

Use of the MOLST form conforms with key steps in health care decision making and advance care planning. These are outlined on the Attorney General’s website:

<http://www.marylandattorneygeneral.gov/Health%20Policy%20Documents/EOL%20Ethics%20Procedures%20RTF.pdf>

The MOLST form replaces earlier documents related to turning choices into orders that are valid in all health care settings across Maryland.

## **How does Maryland's MOLST approach compare to other states?**

The proposed MOLST order form is more comprehensive than in most states and not as comprehensive as several others. As with the previous LSTO form and process, these choices are presented in a clear and concise way to facilitate understanding and treatment selection. This comprehensive approach provides a standardized range of options from which patients can choose in all relevant settings. Thus, patients can have a consistent approach across the state, regardless of how many of the options they wish to consider at any given time.

The Maryland MOLST form also incorporates a previously separate process and form for determining and documenting cardiopulmonary resuscitation (CPR) orders to guide EMS providers in caring for patients who have actual or imminent cardiopulmonary arrest. Thus, the MOLST approach consolidates documentation and procedures, and helps improve understanding and selection of life-sustaining treatment options, regardless of who (including EMS providers) initiates or continues to provide CPR.

## **Why are there numerous treatment choices? Do they all have to be completed?**

The MOLST form includes the most common widely recognized life-sustaining treatment options. It is desirable to offer a broad range of treatment options to standardize definitions, make the decision making process available and convenient, remind patients and providers of available options, and match the potential range of orders to existing documentation of patient wishes.

There is no requirement to make any treatment choices, or to make a certain number of choices. Only treatment options that are selected by the patient (or an authorized decision maker in case of the patient's incapacity) are to be indicated on the form.

## **Does the MOLST form cover everything that patients and practitioners need to know about the process of making choices and completing the form?**

The MOLST form is the means for documenting specific orders related to life-sustaining treatments. The form itself is not the same as the process of making decisions and choosing treatment options that are ultimately ordered on the form. Patients and practitioners should use some of the many available resources and references to help them consider treatment options and discuss, make, and document these decisions. There are more details in the guides for patients and caregivers, authorized decision makers, and health care professionals.

## **Is adherence to MOLST orders mandatory in all settings?**

When an order is written in one setting, it remains in effect until changed in that and subsequent settings. Maryland MOLST is a portable and enduring medical order form. Until they are updated, MOLST orders must be honored by EMS medics and healthcare personnel in all healthcare settings, even if the physician or nurse practitioner who signed the MOLST orders is not on staff at a facility.

The MOLST form in the patient's current setting should accompany any transfers or discharges of the patient to another health care facility, program, or home. The receiving facility or program has a responsibility to ask either the patient or the previous setting from which they receive the patient about the existence of a MOLST order form. The MOLST orders should be reviewed on admission to the new facility or program to ensure that the orders reflect the patient's current wishes. If the patient does not already have a MOLST order form, one shall be completed during the admission process when a patient is admitted to a nursing home, assisted living facility, home health agency, hospice program, kidney dialysis center, or hospital (for certain patients).

## **Who should complete the MOLST order form?**

Patients and authorized decision makers should not complete the MOLST order form directly. Instead, they may use the Health Care Decision Making Worksheet to make treatment decisions. A physician, nurse practitioner, or physician assistant will then complete a MOLST order form to reflect the patient's wishes.

The physician, nurse practitioner, or physician assistant who signs the MOLST order form is responsible for ensuring the orders are accurate and for identifying the basis for them. The orders are based on several factors, primarily on choices made by the patient or an authorized decision maker.

## **Who can sign the MOLST order form?**

A physician, nurse practitioner, or physician assistant can sign MOLST orders. Whoever signs the order form should be aware of the basis for the orders and ensure that they reflect the patient's wishes, as much as it is possible to know them at that time, or that they are based on other relevant factors such as a determination of medical ineffectiveness. Physicians, nurse practitioners, and physician assistants shall not pre-sign blank order forms and leave them for someone else to complete.

## **What should be done if a MOLST form is completed and then another, previous version turns up?**

It is important to reconcile any disparities between multiple versions of MOLST. If that is not feasible—for example, because the person’s decision-making capacity has become impaired and the authorized decision maker is not available—then the choices on the most recent MOLST form for that individual take precedence.

## **Do MOLST orders mandate the administration or withholding of specific treatments?**

Orders on the MOLST form to limit a treatment (that is, to not give a treatment or to only use it to a limited extent) are to be honored as specified. While orders for unlimited or unrestricted treatment authorize their use if medically indicated, they do not mandate giving treatment regardless of its relevance to the patient’s situation.

## **Does completion of the MOLST order form at a given time limit subsequent updates or revisions?**

The orders on the MOLST form can be updated, or otherwise revised or rescinded at any future time, as long as the decision making behind such changes is consistent with applicable laws and regulations such as the federal Patient Self-Determination Act (1991) and the Maryland Health Care Decisions Act (1993). For example, another individual cannot simply rescind or contradict orders based on decisions made by a capable patient who subsequently loses their decision-making capacity, unless that patient specifically authorized them to do so in a legally valid document (e.g., an advance directive or a durable power of attorney).

If the situation changes significantly for a patient who made choices that were turned into MOLST orders, then it may be appropriate to reconsider the relevance of previous choices in light of the current situation, unless the patient’s previous valid care instructions restrict doing so, or there are other determinations such as medical ineffectiveness of specific treatments.

## **What if the patient or authorized decision maker declines to choose any of the treatment options on the MOLST form?**

If the patient or authorized decision maker declines to consider the MOLST form options, for whatever reason, the facility should document this and explain the consequences of making no decision to the patient or authorized decision maker. If there are no limitations on care, except as otherwise provided by law, cardiopulmonary resuscitation will be attempted and other treatments will be given. If a choice regarding

cardiopulmonary resuscitation (CPR) is not made, cardiopulmonary resuscitation will be attempted using all available treatment options (i.e., Attempt CPR on the MOLST form).

Several factors influence whether and to what extent treatment will be given. For example, under the Health Care Decisions Act, a health care practitioner is not obliged to recommend or render treatments that he or she considers medically ineffective, but the practitioner must follow a specific process to implement such decisions.

### **How is the MOLST order form to be revised?**

Once a MOLST order form is completed and signed, a new form should be completed and signed whenever there are any changes to any of the orders. To void the MOLST order form, a physician or nurse practitioner shall draw a diagonal line through the sheet, write "VOID" in large letters across the page and sign and date below the line. Keep the voided order form in the patient's active or archived medical record, as appropriate.

Unless modified or rescinded, orders on the most current MOLST form should be transferred to the updated form, and the updated form should be signed and dated by the current responsible practitioner, even if that practitioner was not involved in signing the previous version of the MOLST form.

### **Is the MOLST form an advance directive?**

Maryland MOLST is a medical order form, not an advance directive. MOLST orders are effective immediately when signed, whereas treatment choices in an advance directive may not apply until some future time. The idea behind providing treatment options in an advance directive is to allow patients to make choices that they want to apply in the future, while they have the capacity to do so and in case they subsequently lose the capacity to do so.

### **How does a patient know when a MOLST form has been completed?**

The patient or authorized decision maker will receive a copy of the MOLST order form within 48 hours after its completion. A patient who is discharged or transferred from the facility or program in less than 48 hours from the time it is signed will receive a copy or the original of the MOLST order form upon discharge or transfer.

### **Is the order form two pages or double sided?**

The Maryland MOLST form can be a double-sided or two-page order form. It is printed on white paper. The Maryland MOLST form is valid on paper or in an electronic format. Copies, including faxes, are also valid.

### **What happens if I don't have a MOLST form or an EMS/DNR form when emergency medical services providers arrive?**

In the absence of a valid MOLST form or EMS DNR Order, patients who are unable to communicate their health care wishes will receive the full scope of interventions permissible under the Maryland EMS Medical Protocols including, if necessary, aggressive, life-saving cardiopulmonary resuscitation.

### **Where can I get a Maryland MOLST form?**

The form may be downloaded from:

[http://marylandmolst.org/pages/molst\\_form.htm](http://marylandmolst.org/pages/molst_form.htm)

If you do not have access to the Internet, Maryland MOLST forms may be requested from MIEMSS at 410-706-4367.

### **If I have an Emergency Medical Services DNR order, do I also need a MOLST form?**

Not for wishes related to cardiopulmonary resuscitation. Existing forms will continue to be valid and need not be redone unless the patient wants to take advantage of the additional care options available on the MOLST form. EMS providers will continue to honor old EMS DNR forms indefinitely. A MOLST form will be needed for any other life-sustaining treatment options other than those directly related to cardiopulmonary resuscitation.

### **Can I make copies of a MOLST form?**

Yes. A copy of the MOLST order form is a valid order. You are encouraged to make copies of your MOLST form so that one is always available and you have replacements if the form is lost. However, it is important to make sure that a copy is made of the most current MOLST form and that older copies are not presented.

## **What constitutes a valid Do Not Resuscitate (DNR) order for Maryland emergency medical services?**

Any of the following constitute a valid DNR order:

- Maryland MOLST form (original, copy, or fax)
- Maryland MOLST vinyl bracelet insert
- Maryland EMS DNR order form, original, copy, or fax
- Maryland EMS DNR vinyl bracelet insert
- Medic Alert bracelet or necklace specifying DNR
- Out-of-state form, via reciprocity (original, copy, or fax)
- Oral order from a physician, nurse practitioner, or physician assistant who is at the scene
- Oral order from a Medical Command Physician.

## **What does not constitute a valid DNR Order for Maryland emergency medical services?**

None of the following provide valid DNR orders:

- Advance directive
- Notes in the medical record
- A facility-specific DNR order
- Colored bracelets that are not part of the MOLST order form or from Medic Alert
- Orders written on a practitioner's prescription pad
- DNR stickers
- Oral requests from family or caregivers
- Oral request for DNR by a physician, nurse practitioner, or physician assistant who is not at the scene with the patient.

## **Where should I keep the signed MOLST form?**

The MOLST form should be kept in a readily accessible and visible location:

- Health care facility or program: The MOLST form is kept with the patient's other active medical orders in his or her medical record or in a section designated for MOLST and related documents in the patient's active medical record.
- Patient's home: The MOLST form is kept at the bedside, above the bed, behind the bedroom door, or on the refrigerator door.



### **Is a bracelet available for DNR orders?**

Plastic bracelets for DNR orders may be ordered through MIEMSS at 410-706-4367. Metal bracelets or necklaces are available through Medic Alert at 1-800-432-5378. Medic Alert will require a copy of the MOLST form to process your request.

### **Where will EMS look for a bracelet?**

EMS providers will accept a properly signed and dated bracelet instead of an order form for a DNR order. The bracelet does not have to be worn, but it must be presented to an EMS provider or worn in a conspicuous place such as on the wrist, as a necklace, or pinned to the patient's clothing.

### **Is a completed but unsigned MOLST form valid for EMS providers?**

No. The form is a medical order and must be signed and dated by a Maryland-licensed physician, nurse practitioner, or physician assistant to be valid.

### **I have an EMS DNR order from another state. Do I need a MOLST from Maryland?**

EMS providers are authorized to follow out of state EMS/DNR orders. You may wish to get MOLST orders signed in order to address the additional life-sustaining treatment options that MOLST contains.

### **Why is the MOLST form needed if an Advance Directive is already in place? Which document takes precedence?**

A MOLST form contains medical orders related to a patient's current medical condition. An advance directive provides guidance to a health care practitioner but treatment decisions need to be based upon medical orders. Even if a patient has prepared an advance directive, a MOLST form is needed to implement those orders. In addition, the MOLST form can move with a patient among settings along with the patient's other active medical orders.

The MOLST form must include certification of the basis of the orders. A patient's informed consent regarding a currently relevant treatment decision takes precedence over instructions in an advance directive. A health care provider may rely upon current MOLST orders to carry out treatment decisions based on a patient's informed consent. However, if the patient is unable—for whatever reason—to give informed consent, then the instructions in an advance directive would control. Or, in the absence

of an advance directive containing treatment instructions, the health care agent or surrogate would make the decision.

When individuals have both an advance directive and a MOLST order form, there may be situations where the two forms conflict. In those cases, if an order on the MOLST form is based on a patient's currently obtained informed consent, there is no need to consult the advance directive. If a MOLST order was not based on a patient's currently obtained informed consent, then current MOLST orders should be consistent with the instructions in a valid advance directive unless updated by a substitute decision maker who is authorized in an advance directive to do so.

**Does the MOLST form that is given to the patient or authorized decision maker need to be in the language that the patient or ADM speaks?**

There is no regulation that requires that a Maryland MOLST form be translated into another language. While translating the form is not prohibited, the regulations require that a completed MOLST form (in English) be kept in the patient's active medical record, accompany the patient on transfer, and be given to the patient or authorized decision maker within 48 hours or sooner if the patient is discharged or transferred.

**May an intern, resident, or fellow sign a Maryland MOLST order form?**

Per the Maryland Board of Physicians, the MOLST form may be signed by interns and residents. Thus, a MOLST form may be signed by a medical student or an individual in a postgraduate medical training program that is approved by the Maryland Board of Physicians, while doing the assigned duties at any office of a licensed physician, hospital, clinic, or similar facility.

**Can a physician with an out-of-state license who worked for the federal government sign a Maryland MOLST form in the context of their job for that entity?**

If the physician is actually licensed in another state and permitted by Maryland law to practice in Maryland without a Maryland license, because he or she is an employee of the federal government performing the duties of his or her federal employment, then his or her license in the other state constitutes in these circumstances a license to practice medicine in Maryland within the meaning of the Maryland's Health Care Decisions Act, Health-General Article, § 5-601(r). Therefore, the physician in the above example may complete a Maryland MOLST order form.

**Since MOLST is an order form, not an advance directive, can an authorized decision maker subsequently change or void a MOLST order form consented to by the patient who is now incapacitated?**

It depends on the specific circumstances. If the MOLST order is based on informed consent from a patient prior to becoming incapacitated and the patient's condition has not changed since the patient gave the informed consent, follow the MOLST order. If the MOLST order is not based on such consent from a patient, then the authorized decision maker should follow relevant instructions in an existing advance directive and/or living will. If there is no advance directive or living will, or if an existing advance directive or living will lacks sufficient guidance about the matter at hand, then consult the authorized decision maker. A health care agent may authorize a change in MOLST orders if he or she is not restricted by instructions in a living will or advance directive.

**I noticed that the MOLST form does not have a place to note the time of signature. Why not?**

Although there is no requirement for a time on the form, nothing prevents a practitioner from putting the time along with the date on the form when it is completed. Under the statute and regulations, the MOLST orders are valid with a signature and a date.

**Has MDH received CMS and Joint Commission approval of the MOLST form to ensure that Maryland facilities do not receive citations/deficiencies for following orders from practitioners who have not been credentialed?**

CMS, The Joint Commission, and states work independently and do not get approval from each other for new regulations or standards. Maryland law has established that the Maryland MOLST order is valid in all health care settings and in the community. Both federal and state regulations grant individuals the right to accept or refuse care. A hospital that fails to honor a patient's wishes contained in a completed MOLST order form would violate the condition of participation regarding patients' rights.

Nationally, POLST programs have been in place as early as 1995. To date, we do not know of any deficiencies issued by CMS, accreditation organizations, or state agencies regarding accepting such orders from a practitioner who is not credentialed at the facility. We are, however, aware of cases where hospitals have been fined for violating patient's rights.

One of the federal conditions of participation for hospitals relates to patient's rights.

42 Code of Federal Regulations § 482.13 reads in part

A hospital must protect and promote each patient's rights.

(a) *Standard: Notice of rights* — (1) A hospital must inform each patient, or when appropriate, the patient's representative (as allowed under State law), of the patient's rights, in advance of furnishing or discontinuing patient care whenever possible.

(b) *Standard: Exercise of rights.* (1) The patient has the right to participate in the development and implementation of his or her plan of care.

(2) The patient or his or her representative (as allowed under State law) has the right to make informed decisions regarding his or her care. The patient's rights include being informed of his or her health status, being involved in care planning and treatment, and being able to request or refuse treatment. This right must not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate.

(3) The patient has the right to formulate advance directives and to have hospital staff and practitioners who provide care in the hospital comply with these directives, in accordance with §489.100 of this part (Definition), §489.102 of this part (Requirements for providers), and §489.104 of this part (Effective dates).

(4) The patient has the right to have a family member or representative of his or her choice and his or her own physician notified promptly of his or her admission to the hospital.

### **When must a provider accept and/or update an existing MOLST form?**

When a patient is admitted to a hospital, nursing home, assisted living program, home health agency, hospice, or kidney dialysis center with a completed MOLST form, the orders contained on it should be reviewed during the admission process. The admissions process is when a physician or other authorized health care practitioner evaluates the patient and writes admission orders. If the MOLST form is inaccurate or the patient or authorized decision maker wishes to authorize a change in the orders contained in the MOLST form, the health care provider shall revise the form by completing a new MOLST form.

### **When must a MOLST form be completed for a patient when the patient arrives in the facility without a MOLST form?**

A MOLST form must be completed during the admission process for patients admitted into nursing homes, assisted living programs, home health agencies, hospices, and kidney dialysis centers. The admission process is the period when the patient is being situated in a facility or program, including (but not limited to) when a physician or other authorized health care practitioner evaluates the patient and writes admission orders.

The time limit for the admission process depends on a particular program's regulations as well as the patient's overall medical condition and stability and the urgency of needing orders regarding life-sustaining treatment options. A nursing home's admission process is no greater than 30 days. An assisted living program's admission process is normally completed prior to the patient moving into the facility but for emergency admissions the process should be completed no later than 14 days following the first date of residence in the facility. A home health agency must complete the admissions process within 5 days of first seeing the patient, and a hospice must complete the admission process within 5 days of first seeing the patient. A kidney dialysis center must complete the admission process within 30 days.

### **How should the review of a MOLST form be documented?**

Neither the law nor the regulations specify where in the chart that the process of reviewing a MOLST form should be documented, so it can be anywhere within the individual's medical record. It would likely be documented wherever you are currently documenting conversations related to code status and end of life discussions. Please contact us if you have any additional questions.

### **Where must a facility keep MOLST orders?**

The regulations require that the MOLST order form or a copy of it be kept with other active medical orders in the patient's medical record or in a section designated for MOLST and related documents in the patient's active medical record. Previous (i.e., no longer current) MOLST orders may be kept elsewhere in the medical record or in an archived record.

### **May a facility have internal orders related to code status and other life-sustaining treatments in addition to the MOLST form?**

There is nothing in the law or regulations that prohibits a facility or program from developing additional forms related to code status and other life-sustaining treatments, but all orders in the medical record should be internally consistent to limit any confusion

in interpretation. Furthermore, EMS personnel will not be able to refer to anything other than MOLST or EMS DNR forms in deciding how to act in case of cardiopulmonary arrest.

**May a surrogate decision maker authorize a DNR order when the individual is not in a qualifying condition such as a terminal condition, end-stage condition, or a persistent vegetative state?**

If two physicians certify that the individual is in a terminal condition or an end-stage condition at the time of a cardiac or pulmonary arrest, a DNR order may be written at this time even though the individual currently is not in an end-stage condition if the physicians certify that within a reasonable degree of medical certainty that if the patient suffers a cardiac arrest that the patient will be in a terminal or end-stage condition even if CPR would prevent death from the initial cardiac arrest. See the link below:

<http://www.marylandattorneygeneral.gov/Opinions%20Documents/1994/79OAG218.pdf>

**May a MOLST form be used voluntarily by health care providers that are not required to use the MOLST form?**

The MOLST form is a valid order form that may be used voluntarily to insure that a patient's wishes regarding their medical care are implemented. If the MOLST form is not used, health care providers must initiate other orders and procedures that will insure that a patient's wishes are carried out.

**If a patient wishes to change an order on page 2 of the MOLST form but also wishes to retain the existing orders on page 1 of the MOLST form, what should be done pending completion of a new form by a physician or nurse practitioner?**

If a patient wishes to authorize changes only to certain orders, then the current MOLST should be voided and a new one completed. Orders that have not been changed should be rewritten as before, and changed orders should be modified accordingly on a new MOLST form.

If a DNR Option had been chosen on page 1 of the MOLST form, the MOLST form should not be voided until it can be replaced because there is a risk that CPR will be administered against the wishes of the patient or the authorized decision maker. Pending the prompt completion of the new MOLST form, changes to orders on page 2 should be reflected in internal orders at the facility.

## **How is an EMS/DNR order form voided?**

The regulations do not outline how to void an EMS DNR form, but the standard of care is to indicate clearly that the order form is no longer applicable. For example, this may be accomplished by drawing a diagonal line across the form and writing "VOID" with your signature and date. To avoid confusion, it is best to remove this form from the other active medical orders (although it can be placed in another section in the chart or in an archived record). Physicians, nurse practitioners, and appropriately authorized RNs and LPNs may void an EMS DNR form and a Maryland MOLST form.

## **May a MOLST form's DNR order be suspended during surgery?**

Yes. A MOLST form's DNR order may be suspended during surgery. For a fuller discussion of the issue under the Health Care Decisions Act, see:

[http://www.marylandattorneygeneral.gov/Health%20Policy%20Documents/dr\\_%20bob.pdf](http://www.marylandattorneygeneral.gov/Health%20Policy%20Documents/dr_%20bob.pdf)

The health care provider's discussion with the patient should be documented in the medical record consistent with the health care provider's policies.

## **Where can I get more information on Maryland MOLST?**

Website

<http://marylandmolst.org>

Email

Maryland.molst@maryland.gov

Call

Attorney General's Office  
Paul Ballard, Assistant Attorney General  
410-767-6918