

Summary of Changes to the MOLST Regulation January 2013

The following is a summary of the changes made to the MOLST regulations and the MOLST form since they were first proposed and published in the Maryland Register on September 23, 2011.

The proposed regulations have been amended to exempt health care providers from the requirement to complete a MOLST form for patients whose primary diagnosis is related to a current pregnancy, for children under age 18 who are unlikely to require a life-sustaining treatment, and for patients with a primary psychiatric diagnosis, except for dementia, delirium, or mental disorders due to a medical condition. Physicians or nurse practitioners caring for these patients may elect to fill out a MOLST form, depending on the circumstances and the voluntary participation of the patient.

The proposed regulations have been amended to extend the date until July 1, 2013 for when assisted living programs, home health agencies, hospices, kidney dialysis centers, and nursing homes must complete MOLST forms for newly admitted patients and hospitals for certain patients. By that same date, all nursing homes and assisted living programs must complete MOLST forms for all their patients who were admitted prior to January 1, 2013, and continue to reside in the nursing home or assisted living program as of July 1, 2013.

The proposed regulations have also been amended to mirror the statutory language that requires a facility, on request of the patient, to offer to any physician or nurse practitioner selected by the patient the opportunity to participate in updating or completing the MOLST form. They also clarify that when interacting with a patient the facility must be sure the patient is competent when the facility is attempting to satisfy its duties under the proposed regulations to: (1) inform the patient that the MOLST form can be accessed through the procedures used to access a medical record; and (2) give the patient a copy of the completed MOLST form within 48 hours or sooner if the patient is discharged or transferred. Otherwise, this required communication must be made to the authorized decision maker who must be given a completed copy of the MOLST form within 48 hours or sooner if the patient is transferred or discharged.

A new provision has been added to the proposed regulations clarifying that an individual may request that a MOLST form be

completed even if the completion would not otherwise be required. Upon completion of the form under these circumstances, the facility must provide a copy to the individual who requested completion of the form within 48 hours.

The proposed MOLST form has been amended to delete the phrase "Blank order forms shall not be signed" as it is a standard not to sign blank order forms.

The section under the MOLST form's heading "CERTIFICATION FOR THE BASIS OF THESE ORDERS" has been amended to clarify that a guardian's authority is granted by a court order and that a surrogate decision maker's authority is granted by the Health Care Decisions Act. Also, this same section of the MOLST form has been amended to replace the language related to medical ineffectiveness with broader language that includes any other legal authority under the Health Care Decisions Act that forms the basis for the form's orders. Language has also been added here that reminds the practitioner completing the MOLST form that all supporting documentation of that other legal authority for the form's orders must be in the medical record.

The statement on the MOLST form that reads: "The patient's or authorized decision maker's participation in the preparation of the MOLST form is always voluntary" has been put into bold letters to highlight this statement.

The instructions in the form have been amended to clarify a statement in the form's instructions that maintenance of the MOLST form in the patient's active medical record may include keeping the MOLST form and related documents in a section designated for the MOLST form and related documents. The form's instructions have also been amended to reflect the new website address.