

	<h2>Maryland MOLST for the Health Care Practitioner</h2> <p>Maryland MOLST Training Task Force July 2013</p>

	<h2>What is the Health Care Decisions Act?</h2>

	<h2>Health Care Decisions Act</h2>
	<ul style="list-style-type: none"><li>■ Applies in all health care settings and in the community throughout Maryland</li><li>■ It became effective on October 1, 1993</li><li>■ A physician is not subject to criminal prosecution or civil liability or deemed to have engaged in unprofessional conduct by withholding or withdrawing health care in accordance with the HCDA</li></ul> <p>3</p>

	<h2>Who is the Decision Maker?</h2>

	<h2>Presumption of Capacity</h2>
	<ul style="list-style-type: none"><li>■ A patient is presumed to have capacity until two physicians certify that the individual lacks the capacity to make health care decisions or a court has appointed a guardian of the person to make health care decisions</li></ul> <p>5</p>

	<h2>Certification of Incapacity</h2>
	<ul style="list-style-type: none"><li>■ If the individual lacks capacity, the attending physician and a second physician must certify in writing that a patient lacks the capacity to make health care decisions<ul style="list-style-type: none"><li>– One of the physicians must have examined the patient within two hours before making the certification</li></ul></li><li>■ Only one physician's certification is needed if the patient is unconscious or unable to communicate by any means</li></ul> <p>6</p>

## Who Makes Decisions if the Patient Lacks Capacity

If there is no health care agent, Maryland law specifies the type and order of the surrogate decision maker(s) as follows:

1. Guardian of the person
2. Spouse or domestic partner
3. Adult child
4. Parent
5. Adult brother or sister
6. Friend or other relative



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## Authority of Surrogates

- All surrogates in a category have the same authority
- All surrogates of equal authority must agree on a decision regarding life-sustaining interventions
- A physician may not withhold or withdraw life-sustaining procedures if there is disagreement among persons in the same class

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## Resolving Disputes Among Equally Ranked Surrogates

- Hospitals and nursing homes are required to have a patient care advisory committee
- Refer the issue to the patient care advisory committee
- Attending physician has immunity for following the recommendations of the patient care advisory committee

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## Documenting the Process

- The process that has been used in determining the correct surrogate decision maker should be documented in the medical record
- When the patient is transferred to another care setting, contact information for the surrogate decision maker should be sent to the receiving facility or program

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## What are Qualifying Conditions?

## Withdrawing Life-Sustaining Treatments

- When using a surrogate decision maker, life-sustaining treatments may only be withdrawn when:
  1. Certification of incapacity by attending physician and second physician
  2. Certification of condition by attending physician and second physician:
    - Terminal condition
    - End-stage condition
    - Persistent vegetative state
- Or, two physicians certify a treatment as medically ineffective for this patient

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## Terminal Condition

- A terminal condition is incurable
- There is no recovery despite life-sustaining procedures
- Death is imminent, as defined by a physician

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## End-stage Condition

- An advanced, progressive and irreversible condition
- Severe and permanent deterioration indicated by incompetency and complete physical dependency
- Treatment of the irreversible condition would be medically ineffective

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## Persistent Vegetative State

- The individual has no awareness of self or surroundings
- Only reflex activity and low level conditioned responses
- Wait "medically appropriate period of time" for diagnosis
- One of two physicians who certify a persistent vegetative state must be a neurologist, neurosurgeon, or other physician who is an expert in cognitive functioning

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## What are Advance Directives?

## Advance Directive

- An advance directive is a written or electronic document or oral directive that:
  1. Appoints a health care agent to make health care decisions - and/or -
  2. States the patient's wishes about medical treatments when the patient no longer has capacity to make decisions (living will)

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## Living Will

- A living will contains a patient's wishes about future health care treatments.
- It is written "if, then":
  - "If I lose capacity and I'm in (specified conditions),
  - Then use or do not use a specific medical intervention

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## Authority of a Health Care Agent

- The advance directive determines when the health care agent has authority
  - “When I can no longer decide for myself”: The individual may decide whether one or two physicians must determine incapacity
  - “Right away”: When the document is signed, the agent has authority

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## Basis of Agent's Decisions

- The health care agent is to make decisions based on the “wishes of the patient”
- If the patient's wishes are “unknown or unclear,” then decisions are to be based on the “patient's best interest”

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## Can an ADM make or revoke an advance directive?

- An authorized decision maker cannot make or revoke a patient's advance directive



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## What is Medical Ineffectiveness?

## Medical Ineffectiveness


- A medically ineffective treatment is a medical procedure that will not prevent or reduce the deterioration of the patient's health or prevent impending death
- Physicians need not offer medically ineffective treatments

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## Advising Patients of Medical Ineffectiveness

- If two physicians determine an intervention is medically ineffective, the patient or ADM must be informed of the decision
- The physician must make a reasonable effort to transfer the patient to another physician if the patient or ADM requests it
- Pending transfer, the physician must provide the requested treatment if failure to do so would likely result in the patient's death

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	<h2>Medical Ineffectiveness in the Emergency Room</h2>
	<ul style="list-style-type: none"> <li>■ In an Emergency Room, if only one physician is available, a second physician certification of medical ineffectiveness is not required</li> </ul>  <p style="text-align: right; font-size: small;">25</p>

	<h2>What is Maryland MOLST?</h2>

	<h2>What is Maryland MOLST?</h2> <p>Medical Orders for Life-Sustaining Treatment</p>
	<ul style="list-style-type: none"> <li>■ It is a standardized medical order form covering options for CPR and other life-sustaining treatments</li> <li>■ It is portable and enduring</li> <li>■ It is valid in all health care settings and in the community</li> <li>■ It helps to increase the likelihood that a patient's wishes regarding life-sustaining treatments are honored</li> </ul> <p style="text-align: right; font-size: small;">27</p>

	<h2>How does MOLST fit into Maryland's existing processes?</h2>
	<ul style="list-style-type: none"> <li>■ Maryland MOLST replaces the MIEMSS EMS/DNR order form and the Life-Sustaining Treatment Options (LSTO) form that was previously used primarily in nursing homes</li> </ul> <p style="text-align: right; font-size: small;">28</p>

	<h2>What is the certification for the basis of these orders?</h2>
	<ul style="list-style-type: none"> <li>■ The practitioner is certifying that the order is entered as a result of a discussion with, and the informed consent of, the:             <ul style="list-style-type: none"> <li>- Patient, or</li> <li>- Patient's health care agent as named in the patient's advance directive, or</li> <li>- Patient's guardian of the person, or</li> <li>- Patient's surrogate, or</li> <li>- Minor's legal guardian or another legally authorized adult</li> </ul> </li> </ul> <p style="text-align: right; font-size: small;">29</p>


	<h2>What is the certification for the basis of these orders?</h2>
	<ul style="list-style-type: none"> <li>■ "I hereby certify that these orders are based on":             <ul style="list-style-type: none"> <li>- Instructions in the patient's advance directive</li> <li>- Other legal authority in accordance with the Health Care Decisions Act</li> </ul> </li> </ul> <p style="text-align: right; font-size: small;">30</p>

	<h3>What if the patient declines or is unable to make a selection?</h3>
	<ul style="list-style-type: none"> <li>■ An individual or ADM has the right to decline to discuss life-sustaining treatments and the right to not make a decision</li> <li>■ "Mark this line if the patient or ADM declines to discuss or is unable to make a decision about these treatments. If the patient or ADM has not limited care, except as otherwise provided by law, CPR will be attempted and other treatments will be given."</li> </ul>
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	<h3>What orders do EMS providers follow?</h3>
	<ul style="list-style-type: none"> <li>■ Follow <i>Maryland Medical Protocols for EMS Providers</i></li> <li>■ Follow orders in Section 1</li> <li>■ Do not follow orders in Section 2 through Section 9</li> </ul>
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	<h3>Section 1: CPR Status</h3>
	<ul style="list-style-type: none"> <li>■ Attempt CPR: If cardiac or pulmonary arrest occurs, CPR will be attempted</li> <li>■ No CPR, Option A-1, Intubate: Comprehensive efforts to prevent arrest, including intubation</li> <li>■ No CPR, Option A-2, Do Not Intubate: Comprehensive efforts to prevent arrest; do not intubate, but use CPAP or BiPAP</li> <li>■ No CPR, Option B: Palliative and supportive care</li> </ul>
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	<h3>Section 2: Artificial Ventilation</h3>
	<ul style="list-style-type: none"> <li>■ Accept artificial ventilation indefinitely, including intubation, CPAP, and BiPAP</li> <li>■ Time limited trial of intubation</li> <li>■ Time limited trial of CPAP and BiPAP, but no intubation</li> <li>■ No artificial ventilation: No intubation, CPAP, or BiPAP</li> </ul>
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	<h3>Section 3: Blood Transfusion</h3>
	<ul style="list-style-type: none"> <li>■ Accept transfusion of blood products, including whole blood, packed red blood cells, plasma, or platelets</li> <li>■ No blood transfusions</li> </ul>
	
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	<h3>Section 4: Hospital Transfers</h3>
	<ul style="list-style-type: none"> <li>■ Accept hospital transfer</li> <li>■ Hospital transfer only for limited situations, including severe pain or severe symptoms that cannot be controlled otherwise</li> <li>■ No hospital transfer, but treat with options available outside of the hospital</li> </ul>
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## Section 5: Medical Workup

- Accept any medical tests
- Limited medical tests are acceptable when necessary for symptomatic treatment or comfort
- No medical testing for diagnosis or treatment

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## Section 6: Antibiotics

- Accept antibiotics
- Oral antibiotics only (not IV or IM)
- Oral antibiotics for relief of symptoms only
- No antibiotics



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## Section 7: Artificially Administered Fluids and Nutrition

- Accept artificial fluids and nutrition, even indefinitely
- Accept time-limited trial of artificial fluids and nutrition
- Accept a time-limited trial of artificial hydration only
- No artificial fluids or nutrition

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## Section 8: Dialysis

- Accept dialysis, including hemodialysis and peritoneal dialysis
- Accept time-limited trial of dialysis
- No dialysis

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## Section 9: Other Orders

- This section may be used to indicate preferences for other life-sustaining treatments, such as chemotherapy and radiation
- It should not be used for ambiguous phrases such as "comfort care"

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## Does a choice have to be made in each section?

- Section 1, CPR status, must be completed for everyone
- Sections 2 - 9 are only completed if the patient or authorized decision maker makes a selection regarding that specific life-sustaining treatment and/or if specific treatments are determined to be medically ineffective

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## Who may sign Maryland MOLST?

- Any physician that has applied for and received an active Maryland physician's license may sign MOLST
- Nurse practitioners who are licensed in Maryland may sign MOLST
- Beginning October 1, 2013, physician assistants with an active Maryland's license may sign MOLST

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## Who completes the Maryland MOLST order form?

- The physician or nurse practitioner who signs the Maryland MOLST order form is responsible for the orders
- Before signing this or any order sheet, the practitioner must validate the accuracy of the orders
- Physicians and nurse practitioners shall not pre-sign any blank order forms

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## What is the practitioner's responsibility when completing MOLST?



To ensure that the orders are internally consistent

- For instance, choosing full resuscitation is inconsistent with refusing hospital transfer from an assisted living facility

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## Should the practitioner initial the choices on the MOLST order form?

- It is strongly recommended that the practitioner initial the specific treatment orders on the MOLST form
  - Checking or otherwise marking the orders rather than initialing them is permitted



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## Can nurses accept verbal orders to complete a MOLST form?

- A nurse may accept verbal orders for CPR and LST, but must document these orders on a standard order form rather than on the MOLST form
- The MOLST order form is not valid until it is signed by a physician or nurse practitioner
  - EMS providers cannot follow unsigned or verbal MOLST orders

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## May blank sections of Maryland MOLST be struck through?


- As with other preprinted orders, sections that are not relevant to the patient's current medical condition can be left blank or a line may be drawn through a section that is intentionally left blank

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	<h3>When shall Maryland MOLST orders be reviewed?</h3>
	<ol style="list-style-type: none"> <li>1. Annually</li> <li>2. Patient is transferred between health care facilities, the receiving facility reviews it</li> <li>3. Patient is discharged</li> <li>4. Patient has a substantial change in health status</li> <li>5. Patient loses capacity to make health care decisions</li> <li>6. Patient changes his or her wishes</li> </ol>
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	<h3>What if a patient changes his or her mind?</h3>
	<ul style="list-style-type: none"> <li>■ Patients who have the capacity to make health care decisions may change their advance directive and ask their physician or nurse practitioner to revise their Maryland MOLST order form at any time</li> </ul>
	
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	<h3>How are MOLST orders revised?</h3>
	<ul style="list-style-type: none"> <li>■ Void the existing MOLST form</li> <li>■ Complete and sign a new MOLST form to reflect the current orders</li> </ul>
	
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	<h3>How is MOLST voided?</h3>
	<ul style="list-style-type: none"> <li>■ A physician, nurse practitioner, or nurse void the form by drawing a single diagonal line across the page, writing "VOID" in large letters across the page, and then signing and dating below the line</li> <li>■ Beginning October 1, 2013, a physician assistant may void a MOLST form</li> <li>■ A nurse may take a verbal order to <u>void</u> the MOLST form</li> <li>■ The voided order form shall be kept in the patient's active or archived medical record</li> </ul>
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	<h3>Is a copy of MOLST a valid order?</h3>
	<ul style="list-style-type: none"> <li>■ The original, a copy, and a faxed MOLST form are all valid orders</li> </ul>
	
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	<h3>Is the Maryland MOLST form printed on colored paper?</h3>
	<p>No, the Maryland MOLST form is on white paper</p>
	
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### What are the legal requirements for completing Maryland MOLST?

- Beginning July 1, 2013, the Maryland MOLST form must be completed or an existing form reviewed when a patient is admitted to:
  1. Nursing home
  2. Assisted living facility
  3. Home health agency
  4. Hospice
  5. Kidney dialysis center
  6. Hospitals (for certain patients)

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### What are the legal requirements for completing MOLST in hospitals?

- All hospitalized inpatients who are transferred to another facility (nursing home, assisted living facility, home health agency, hospice, and kidney dialysis center, or another hospital) must have a completed Maryland MOLST form
- It is not required for Emergency Room, observation, or short-stay patients

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### How is "patient" defined?

- "Patient" does not include someone:
  - Whose primary diagnosis for the current treatment is a psychiatric disorder, except for dementia, delirium, or mental disorders due to a medical condition; or
  - Whose primary diagnosis is related to a current pregnancy; or
  - Who is younger than 18 years old and who is unlikely to require a life-sustaining treatment

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### Who may discuss life-sustaining treatments with patients?

- In addition to physicians, nurse practitioners, and physician assistants, many other health care professionals have the knowledge, skills, and experience to discuss CPR and other life-sustaining treatments with patients
- However, the practitioner that signs the Maryland MOLST order form is held accountable for its content and accuracy

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### Is there a patient worksheet for Maryland MOLST?

- Yes, the Health Care Decision Making Worksheet is a voluntary form that can be used to guide current medical decision making
- It is not an advance directive or medical order form
- It includes the individual's goals of care, the name of the authorized decision maker, and the patient's signature

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### Does the patient get a copy of a completed MOLST order form?

- Yes, within 48 hours of its completion, the patient or authorized decision maker shall receive a copy or the original of a completed Maryland MOLST form
- If the patient leaves a facility or program in less than 48 hours, the patient shall have a copy or the original of MOLST when they are discharged or transferred

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	<p>Is the form otherwise available to the patient or ADM?</p>
	<ul style="list-style-type: none"> <li>■ The health care facility shall inform the competent patient or authorized decision maker that the MOLST form is part of the medical record and can be accessed through the procedures used to access a medical record</li> </ul> <p style="text-align: right;">61</p>

	<p>What happens when the patient is discharged or transferred?</p>
	<ul style="list-style-type: none"> <li>■ The Maryland MOLST form shall accompany a patient when transferred to a new facility or program</li> <li>■ EMS providers shall take a copy or the original MOLST order form when the patient is transported</li> <li>■ The transferring facility or program shall always keep the original or a copy of MOLST in the patient's medical record</li> </ul> <p style="text-align: right;">62</p>

	<p>For More Information</p>
	<p style="text-align: center;"> <a href="http://marylandmolst.org">marylandmolst.org</a>   <a href="mailto:maryland.molst@maryland.gov">maryland.molst@maryland.gov</a>   Paul Ballard, Assistant Attorney General  410-767-6918 </p> <p style="text-align: right;">63</p>