Physician's Order for Life-Sustaining Treatment (POLST): Your Life or Death – Who Decides?

> **The POLST movement "is a national effort to manage and control death under the guise of compassion."**
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> — Lisa Gasbarre Black, J.D., General Counsel to Catholic Charities Health and Human Services, Diocese of Cleveland, Ohio. (Ethics and Medics, June 2010, *The Danger of POLST Orders*.)

> **"You have arguments by defenders that make these documents seem innocent, but the pressure is always in favor of removal of treatment."**
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> — E. Christian Brugger, Ph.D., the Cardinal Stafford Chair of Moral Theology at St. John Vianney Theological Seminary in Denver, Colorado. (National Catholic Register, Daily News, May 16, 2012, *Physician's Order for Life-Sustaining Treatment: Helpful or New Threat?* by Charlotte Hays.)

How POLST Works

You may be approached by a doctor, social worker, nurse or chaplain about refusing medical treatments at the end of your life.

Next, a brightly colored one page medical order with boxes checked, called the Physician's Order for Life-Sustaining Treatment (POLST), will be put in your medical record. You might get to see it and sign it; or, you may not. (The patient's signature is optional on forms used in Wisconsin. Even where it is required, others are signing for patients without telling them.[1])

A California study found doctors often signed POLST forms without meeting with patients. In the study: 57% of POLST forms were completed by non-health care professionals such as admissions coordinators or business managers of nursing homes; another 15% were completed by nurses and nurses' aids, bringing the total prepared by non-physicians to 72%.[2]

"Facilitators" who may have no medical training are often the only ones who present a POLST to patients according to Rita Marker of the Patients Rights Council.[3] She says these facilitators are "basically taught to follow a script;" they might say things such as "We find that most people would not want to continue to live in a vegetative state." [4] They "focus on what you wouldn't want" done.[5] (A typical POLST can refuse resuscitation, hospitalization, intensive care, medical interventions, IVs for delivering drugs and fluids, antibiotics, and feeding tubes.)

The POLST goes into effect as soon as a doctor or physician's assistant signs it. It says, "When the need occurs, first follow these orders, then contact physician." It must be obeyed instantly and without regard to judgments of the medical team on the scene[6] or decisions by your family. Your Power of Attorney for Health Care is overridden by the medical team as they follow the POLST,[7] cutting your selected decision-maker out of the process.

Not What Most People Want

Dying when you could have recovered probably is not what you thought would happen when you talked about your end of life wishes. If we can recover, almost all of us want medical treatment.[8]

You probably will be assured you can always change your mind, but that is unlikely. Up to 76% of us are unable to express our wishes when we need end of life care.[9] So, if you are unable to express your wishes and you could recover, but the POLST refuses medical treatment, nothing will be done except to ease you through the dying process.

Even if you could recover, without medical treatment per the POLST you probably will die. In the unlikely event that you survive, you might be disabled due to lack of prompt medical treatment. [10] Of course, if you agree to no IV or no feeding tube, you will definitely die of dehydration. No one will know if you could have recovered unless your family has your body autopsied.

Another problem is that you're trying to make decisions today that may not come into effect for five or ten years," according to Dr. John Brehany Ph.D., Executive Director of the Catholic Medical Association.[11] "You don't know what your condition will be and what medical advances will have been made by then.[12] You're 60 and healthy, and you're asked 'Do you want to be hooked up to a lot of machines?' But when the same person is 70 and might be going through a temporary rough patch, nothing will be done because of the POLST signed a decade earlier."[13]

Abuse and Misuse of POLST

A survey of California nursing home Ombudsman "revealed a very disturbing level of misrepresentation and misuse of POLST."[14] Almost three-fourths (73%) reported nursing home residents were told they had to have a POLST, even though the law says it is voluntary. They were also told it was harder to revoke than the law allows.[15] Handouts supplied with the POLST were characterized as manipulative.[16] As mentioned earlier, the California study revealed doctors signed POLST without talking to patients very often. The same study said 58% of doctors had signed "advisory" POLSTs without patients' consent and presumably knowledge.[17]

Patient advocate, Julie Grimstad, L.P.N. says "POLST leaves the patient wide-open for abuse. POLST sets the stage for neglect, substandard medical treatment, and cost-saving at the expense of patients' lives. Although POLST promoters steer clear of mentioning the money motive, it is undoubtedly a factor in efforts to limit treatment. "[18] She's right. Death is always cheaper.

What Can You Do?

To make sure that, if you become unconscious, treatment will reflect what is best for you and your wishes, appoint a health care agent who knows your wishes and can be trusted to do the right thing. You do this with a Health Care Power of Attorney. If you don't have somebody in the family, ask your pastor. Some will perform this service themselves, other churches have volunteers. You want someone who will be assertive and who will make sure a POLST doesn't end up dictating what happens to you.

Sara Buscher, July 2012

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[1] California Advocates For Nursing Home Reform (CANHR), *Physician Orders for Life Sustaining Treatment ("POLST") Problems and Recommendations* (2010) at pages 3, 5 and 10-note 20. 59% of Omsbudsman said others were signing for competent patients and 58% said doctors signed "advisory" POLST without patient consent.
[2] CANHR Study at pages 3 and 6.
[3] Charlotte Hays, *Physician's Order for Life-Sustaining Treatment: Helpful or a New Threat?*, National Catholic Register (May 16, 2012), *quoting* Rita Marker, an attorney and Executive Director of the Patients Rights Council.
[4] *Id.*
[5] *Id.*
[6] See note 2.
[7] Julie Grimstad, *SELECTIVE KILLING FIELDS: POLST in Action* (Human Life Alliance Weekly Wire, 3-19-11).
[8] Fried TR, et al., *Understanding the Treatment Preferences of Seriously Ill Patients*, N Engl J Med, Vol. 346, No. 14 (April 4, 2002).
[9] Rebecca L. Sudore and Terri R. Fried, *Redefining the "Planning" in Advance Care Planning: Preparing for End-of-Life Decision Making* 153 Annals of Internal Medicine 256, 257 (2010).
[10] Brief of *Amici Curiae* Drs. Isajiw, Flamini, Travaline, and Benzio, and the Pennsylvania Family Institute at 3-5, *In re D.L.H.*, 2 A.3d 505 (S.Ct. PA 2012) (Docket # 98 MAP 2009).
[11] Article referred to in endnote 2 quoting Dr. John Brehany Ph.D. of the Catholic Medical Association.
[12] *Id.*
[13] *Id.*
[14] CANHR Study (see note 1) at page 1.
[15] *Id.* at page 3.
[16] *Id.* at page 5.
[17] See note 1.
[18] See note 7.