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# Guidance Document for Illinois Health Care Professionals and Providers

**Illinois Department of Public Health (IDPH)**
**Uniform Do-Not-Resuscitate (DNR)**
**Advance Directive/ Physician Orders for**
**Life Sustaining Treatment**
**(POLST)**

July 2013

## EXECUTIVE SUMMARY

Illinois has made revisions to its statutory DNR form to align it with the same format now used by many of the states: the Physician Orders for Life-Sustaining Treatment form, or "POLST". POLST, a national, evidence-based program (http://www.polst.org/), embraces an informed decision-making model that uses a standardized form containing physician orders to communicate the scope of emergency medical treatment as determined by patient preferences. The POLST process and document are designed to promote patient autonomy by helping health care professionals understand and honor the treatment wishes of their patients.

Illinois legislation (20 ILCS 2310-600(b-5), effective in 2012, called for revisions to the Illinois Department of Public Health's (IDPH) Uniform DNR Advance Directive to meet the national requirements to be considered a Physician Orders for Life-Sustaining Treatment form. The revised form is identified as: "Illinois Department of Public Health Uniform Do-Not-Resuscitate (DNR) Advance Directive/ Physician Orders for Life Sustaining Treatment (POLST)."

The IDPH Uniform DNR Advance Directive/POLST form is a signed medical order that documents the life-sustaining treatment wishes of seriously ill patients. The form accompanies the patient to ensure that treatment preferences are honored across all care settings..

The revised form is designed to honor the freedom of persons with advanced illness and the frail elderly to accept or to limit life-sustaining treatment. The POLST paradigm allows patients to choose: all possible life-sustaining treatment; limited life-sustaining interventions; or comfort care only. In cases when patients do not select comfort care only, comfort care is always provided in addition to other care choices patients make.

The IDPH Uniform DNR Advance Directive/POLST form is intended for persons of any age for whom death within the next year would not be unexpected. The form is <u>not</u> intended for persons with disabilities or stable chronic medical conditions, unless their health deteriorates to the extent that death within a year would not be unexpected.

Use of the IDPH Uniform DNR Advance Directive/POLST form is completely voluntary. This form contains orders that can be revoked or changed at any time by patients or their legal representative. When a patient's condition changes significantly, prior decisions about treatment should be revisited and consideration should be given to completing a new, updated IDPH Uniform DNR Advance Directive/POLST form.

The IDPH Uniform DNR Advance Directive/POLST form is intended to be completed after patients and their health care professionals/providers discuss together: the patient's current medical condition(s) and prognosis; possible causes of deterioration and indicated medical responses/treatments; the risks, burdens and benefits of those treatments; and the patient's own values and goals for treatment. The discussions are of primary importance to the POLST process as the form serves as a potential guide for these discussions. Completed forms are therefore a product of the discussions and are signed by the patient or legal representative, an

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attending physician, and a witness. The completed form is an actionable medical order.

Health care providers and professionals are required by law to honor treatment choices shown on the IDPH Uniform DNR Advance Directive/POLST form. As the form accompanies the patient, it provides an immediate guide for first responders and emergency department staff about whether to initiate life-supporting care. Absent these medical orders, emergency medical personnel are required to do everything they can to attempt to save a person's life.

*This guidance document was developed by the POLST Illinois Task Force. The POLST Illinois Task Force has state-wide representation from emergency medical services, hospitals, nursing homes, hospices, physicians, nursing, care management and hospice specialty organizations, and the Illinois Department of Public Health. This document provides background information to facilitate completing the IDPH Uniform DNR Advance Directive/POLST form.*
*It does not provide legal or medical advice.*

The POLST Illinois Task Force thanks the Institute for Patient Safety Excellence and the Chicago End-of-Life Care Coalition (http://www.cecc.info/) for their ongoing sponsorship and support.

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# What is POLST?

People have the moral and legal right to make their own health care decisions. Advance health care directives help people document their treatment preferences for situations when they lack decisional incapacity and would be unable to communicate their wishes. The state of Illinois recognizes the "Illinois Department of Public Health Uniform Do-Not-Resuscitate (DNR) Advance Directive/Physician Orders For Life-Sustaining Treatment (hereafter referred to in this document as the "IDPH DNR/POLST form" or "POLST") as it statutory form. The POLST form sets directions for health care professionals in various settings so they may, in good faith, initiate or withhold life-sustaining treatments based on the directions expressed in the form.

The POLST form is recommended for patients for whom death within a year would not be unexpected, or for those persons with strong treatment preferences. For those individuals, it is intended to augment, not replace, other advance directives such as the Power of Attorney for Health Care (POAHC).

The POLST form is a summary of treatment preferences and medical orders for care that is easy to interpret in an emergency situation. Use of the form is intended to enhance the advance care planning process by translating the patient's treatment wishes into a recognized medical order. The document presents orders in a concise manner that is easily understood by first responders. The POLST form facilitates record-keeping and ensures HIPAA compliant transfer of appropriate information among health care professionals and providers across settings. Use of the POLST form is completely voluntary and its use is in accordance with Illinois law.

The medical orders contained in the POLST form direct the *initial* care of the patient by emergency providers. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, the patient's treatment wishes may change. Should this be the case, the patient's directions for medical care and the POLST form should be revised to reflect new preferences and treatment choices. Depending on the state, a POLST form completed in Illinois may or may not be legally recognized in other states. Similarly, POLST forms from other states may not be legally recognized by paramedics prior to their consulting with EMS medical control.

While no form can address all the medical treatment decisions that may need to be made, the POLST document promotes the goal of supporting patient autonomy and enhancing quality of care and is expected to complement other advance health care directives. The POLST decision-making process works best when the patient also has appointed a health care agent to direct care for those situations where the individual is unable to express his or her treatment decisions. A health care agent may be appointed by completing an Illinois Statutory Short Form Power of Attorney for Health Care or other equivalent document as permitted by the Illinois Power of Attorney Act (755 ILCS 45/Art. IV).

The revised form is a significant improvement over the previous version of the IDPH Uniform DNR Advance Directive form, which only allowed persons to exercise their right to refuse CPR in case of full cardiac arrest. The revised, POLST version of the form clarifies the full range of options that are available to individuals, including all treatment options, limited treatment or trial periods, or a request to only be kept as comfortable as possible while refusing aggressive medical treatments.

Because the new form can be used to indicate *acceptance*, not just refusal of certain medically indicated treatments, health care professionals/providers should carefully examine the form for guidance.

*In Summary:*

- The IDPH Uniform DNR Advance Directive/POLST form, signed by the patient's physician, converts the patient's care choices into an *actionable medical order* that all other physicians, nurse practitioners, physician assistants, long-term care facilities, hospices, home health agencies, emergency medical services and hospital staff are required by law to honor.

- A POLST form clarifies treatment interventions that seriously ill persons *would or would not want* in the event of a life-threatening emergency.

- POLST is both a document for guiding discussions about care in the event of life-threatening illness and a set of instructions that health care professionals are expected to honor when presented with a valid form.

- Health care professionals and institutional providers are legally protected from liability if, in good faith, they honor the instructions contained in a POLST form.

- The POLST form accompanies the patient to ensure that treatment preferences are honored across all care settings.

- The POLST version of the form allows patients to specify preferences for a wider range of treatment options than the prior version of the IDPH Uniform DNR Advance Directive.

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# Who Should Have a POLST Form?

The POLST form is recommended for:

- Persons of any age for whom death within the next year would not be unexpected; and/or
- Patients with advanced illness or frailty, and limited life expectancy; and/or
- Patients who may lose the capacity to make their own health care decisions in the next year, such as persons living with dementia; and/or
- Persons with strong preferences about current or anticipated end-of-life care.

A general rule of thumb for the health care professional/provider in determining whether a POLST discussion and form is appropriately integrated into the advance care planning process is the question: "Would I be surprised if this patient died or lost decisional capacity in the next 12 months?" If the answer is, "No, I would not be surprised," it is appropriate to consider a goals-of-care discussion and advance care planning with POLST. A POLST conversation and completion of the POLST form is also recommended for hospitalized patients being discharged to a custodial nursing home or hospice program.

The POLST form may also be appropriate for patients who have strong preferences regarding specific medical interventions, such as the use of mechanical ventilation or long-term artificial nutrition.

This form generally is not meant for those for whom end-of-life decisions are likely in their more distant futures. When the form is completed “too early,” it is possible for it to represent “in theory” wishes that actually may be different from what an individual’s wishes might be when living with an actual life-limiting condition. Completing the form in the context of a life-limiting condition tends to be a more accurate reflection of a patient’s wishes.

Unless it is the patient’s preference, use of the POLST form to limit treatment is not appropriate for patients with chronic, stable medical or persons with functionally disabling problems who have many years of life expectancy.

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# How to Use the POLST Form

**Overview**
Completion of the POLST form is voluntary, and the goal of the form is to ensure that the patient receives the level of care desired.

The POLST form may be completed after a discussion with the person regarding his or her overall goals of care and treatment preferences. If the person lacks decisional capacity to understand this conversation, the discussion should take place with the person's appropriately delegated health care agent or health care surrogate (referred to on the form itself as "legal representative"). It is recommended that the professionals who undertake conversations with individuals about end-of-life treatment choices have taken steps, typically through formal training, to ensure that they have acquired the appropriate skills to have these conversations. The document may be prepared by physicians as well as other trained health care professionals. At this time, the Illinois form must be signed by the attending physician who assumes responsibility for the medical indications of the orders and for ensuring that the orders accurately reflect the individual's wishes.

The POLST is a two-sided form. While bright pink paper is recommended for easier visibility, the form is still valid if it is completed on white (or other colored?)paper. All electronic copies, faxed copies, or photocopies of the form are also valid. In general, faxed or electronic signatures and telephone orders should only be used in accordance with facility/community policies to ensure the patient does not lose the opportunity to completed or revise a POLST form.

The front of the document contains the "Physician Orders for Life-Sustaining Treatment" (Sections A - E). The other side of the form provides additional information, including space to indicate the patient's health care contact information and space for the signature of the health care professional who prepares the form for review.

For the POLST form to be valid, it requires the signature of either the patient, or the patient's legal representative if he or she lacks decisional capacity. The requirement that patients or their legal representatives review and sign the form provides a safeguard for patients that the orders on the form accurately convey the patient's preferences. This signature provides evidence that the responsible party agrees with the orders on the form.

The POLST form should reflect the patient's values and provides documentation of life-sustaining treatment orders that reflect his or her care preferences. It is recommended that institutions develop their own policies for storage of the document in an easily identifiable place. In institutional settings, it is recommended that the POLST form be the first document in the clinical record. In other settings, it is recommended that the form be placed inside a brightly colored envelope (to protect privacy) and placed in an easily accessible location such as the outside of the kitchen refrigerator or on the inside of the front door. A copy of the POLST form should be kept in the individual's medical

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record. The original form should accompany the individual upon transfer from one setting to another.

**HIPAA**

HIPAA permits disclosure of the POLST form to other health care professionals and providers across treatment settings. The original form should stay with the person at all times and is the preferred document. However, copies and faxes of the POLST form should be honored if they are only version available in an emergency. Copies should be placed in the medical record in an easily accessible location.

**Signing Physician**

Sometimes a person is evaluated in a setting, such as a hospital emergency department, where the POLST form has been signed by a physician who is not on that setting's medical staff. Some emergency physicians and admitting physicians have been reluctant to automatically follow the POLST orders without first examining the patient and reassessing the person's determinations in the current clinical situation. It is important to recognize that POLST orders are intended for emergency situations and there may be a need to follow the orders before a complete reassessment and informed consent conversation can be completed. Health care professionals and providers are legally protected for following the medical orders set out in the POLST form in good faith. POLST orders must be followed until a review is completed by the accepting health care professionals and a conversation can take place with the patient or other appropriate decision-maker where the patient is unable to communicate his or her wishes.

*In Summary:*

- Completion of the POLST form is entirely voluntary.
- Health care professionals/providers may assist the individual in preparing a POLST form; however, Illinois requires that it must be signed by the attending physician.
- The POLST form has two sides, all of the orders are contained on the first side and the back side contains contact information, document preparer information, information about other advance directives, and a summary of instructions for completing/voiding/reviewing the form.
- Bright pink paper is recommended for the original form; however, any color is valid.
- Copies and faxes of a valid form are also valid.
- It is recommended that the original form contain all necessary signatures (not faxed or telephone orders unless absolutely necessary), and that the original travels with the patient when transferred from care setting to care setting.

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- HIPPA permits the disclosure of POLST information to other health care providers.

- Providers must follow the instructions of a valid form and are legally protected if they follow the instructions on the form in good faith.

# Section by Section Review of the POLST Form

The POLST form is a two-sided document. The front side of the form contains the medical orders and signatures (Sections A-E). The back side includes an area for documentation of other advance directives and directions for health care professionals and providers. The back side is for informational purposes only. If multiple forms exist, the form with the most recent date is the form to be followed.

Patients may change their mind at any time. If a patient wishes to make changes to the form, it is recommended that a new form be created. The old form should be voided by writing “VOID” across the front of the form, along with the date that the form was voided.

***POLST Form, Side One.***

**Sections A, D, and E must be completed in order to have a valid form.**

**Section A: Cardiopulmonary Resuscitation (CPR):**
*Patient has no pulse and is not breathing.*

**Section B: Medical Interventions:**
*Patient has a pulse and/or is breathing and is in need of emergency treatment.*

**Section C: Options for Artificially Administered Nutrition:**
*Food will always be offered by mouth if feasible and if desired.*

**Section D: Documentation of Discussion:**
*Signature of the individual or his/her legal representative, and a witness.*

**Section E: Signature of Attending Physician.**

If no choices are indicated in sections B and C, all necessary life-sustaining treatment should be provided until such time as the patient or legal representative (POAHC or surrogate) can clarify the patient’s wishes based on the patient’s current state of health.

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## Section A: CPR for Patient with no Pulse and Not Breathing

| A<br>Check One | **CARDIOPULMONARY RESUSCITATION (CPR)** Patient has no pulse *and* is not breathing. |
|---|---|
| | ❑ Attempt Resuscitation/CPR (*Selecting CPR means* Intubation and Mechanical Ventilation *in Section* B *is selected*)<br>❑ Do Not Attempt Resuscitation/DNR |
| | *When not in cardiopulmonary arrest, follow orders B and C.* |

Section A answers the question "Should we attempt CPR for this individual who appears to have died?" This section provides instructions for those individuals whose hearts have completely stopped beating and who are not breathing. Unlike previous versions of the IDPH DNR Advance Directive, the new form allows individuals to indicate that they will accept CPR if in **cardiac arrest.** This change is an addition to the option of refusing CPR. The POLST form is MORE than a DNR directive, and particular care should be taken to ensure an adequate translation of the patient's wishes takes place during an emergency.

Section A does not apply to a patient in respiratory distress, because he or she is still breathing. Similarly, this section does not apply to a patient who has an irregular pulse or low blood pressure, because this patient has a pulse. For these situations, the emergency responder should refer to section B, described below, and follow the indicated orders.

If the "Attempt Resuscitation/CPR" box is checked, full CPR measures should be initiated with transfer to an appropriate treatment facility or level of care. The success of resuscitation is dependent on many variables, including the individual's overall health and how long the brain has been deprived of oxygen.

If the "Do Not Attempt Resuscitation/DNR" box is checked, CPR should not be performed. If there is any question, if the patient still has a pulse or is breathing, directions in Section B should be followed. The dignity of the individual should be protected at all times.

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## Section B: Medical Interventions for Individuals with a Pulse and/or Still Breathing

| B<br>Check One | **MEDICAL INTERVENTIONS Patient has pulse and/or is breathing.** |
|---|---|
| | ❑ **Comfort Measures Only** (Allow Natural Death). Relieve pain and suffering through the use of medication by appropriate route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. ***Patient prefers no transfer to hospital*** *for life-sustaining treatments.* ***Transfer*** *if comfort needs cannot be met in current location.* **Treatment Plan: Maximize comfort through symptom management.** |
| | ❑ **Limited Additional Interventions** In addition to care described in Comfort Measures Only, use medical treatment, antibiotics, IV fluids and cardiac monitor as indicated. No intubation or mechanical ventilation. May consider less invasive airway support (e.g., CPAP, BiPAP). ***Transfer*** *to hospital if indicated. Generally avoid the intensive care unit.* **Treatment Plan: Provide basic medical treatments.** |
| | ❑ **Intubation and Mechanical Ventilation** In addition to care described in Comfort Measures Only and Limited Additional Interventions, use intubation and mechanical ventilation as indicated. ***Transfer to hospital*** *and/or intensive care unit if indicated.* **Treatment Plan: Life support measures, including intubation, in the intensive care unit.** |
| | ❑ **Additional Orders** ____________________ |

In addition to orders for a full arrest situation, the new form allows individuals to specify the intensity of medical interventions when they experience a life-threatening emergency where they still have a pulse or are still breathing. The odds for success of medical interventions are based on a number of variables, but may be much higher than resuscitation for full arrest, depending on the patient's medical condition. If no box is marked, all indicated treatments should be administered until such time as the patient or their legal representative can provide further guidance.

If the patient has marked Attempt CPR in Section A, then Intubation and Mechanical Ventilation must be chosen in Section B. The rationale for this is as follows: if Comfort or Limited Interventions are attempted and fail and the patient proceeds to full arrest, full CPR would be performed. In this situation, the purpose of marking Comfort or Limited Interventions is defeated. Professionals who are assisting individuals in completing a POLST form should take extreme care to ensure that orders in sections A and B do not conflict.

Similarly, just because an individual wishes *not* to be resuscitated in the event of a full cardiac arrest (DNR in Section A), medical interventions should not be withheld from a patient who has a pulse or is still breathing unless Comfort Only or Limited Interventions is marked and the patient has a medical condition that falls under the scope of those instructions. In a recent study of POLST documents in Oregon, investigators found that half of the individuals who selected DNR in Section A still wanted some form of medical intervention in non-cardiac arrest circumstances.

Comfort care should always be provided regardless of the indicated level of emergency medical treatment. Other instructions may also be specified in Additional Orders. Additional orders may address issues such as dialysis, surgery, blood transfusions and other treatments.

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### *“Comfort Measures Only”*
Indicates a desire for only those interventions that maximize comfort through symptom management. Antibiotics may be used if they serve as a comfort measure. Examples of comfort measures may include the use of medication by any route, positioning, wound care, and oxygen, suction and manual treatment of airway obstruction (choking). Refer appropriate patients to hospice. Even when patients prefer not to be transferred to a hospital, it is sometimes appropriate to transfer patients to the hospital to control their suffering when comfort needs cannot be met in the current location.

### *“Limited Additional Interventions”*
Include the comfort measures indicated above, as well as IV fluids and cardiac monitoring and treatment as indicated. Note that this section is specific in saying *Do not use intubation or mechanical ventilation, although less invasive airway support may be appropriate.* Transfer to hospital may be indicated, but use of intensive care is avoided. This is selected when patients would want hospitalization and treatments for reversible conditions or exacerbation of their underlying illness that might restore them to their current state of health. Hospitalization or antibiotics for pneumonia is an example of a limited additional intervention. Additional clarifying orders that reflect the patient's preferences can be written under Additional Orders or noted in this section and attached. For example, a person may have underlying chronic renal failure that does not require dialysis, and he or she may not want dialysis should the renal failure become more acute.

### *“Intubation and Mechanical Ventilation”*
Includes all care above with no limitation of medically indicated treatment. All support measures needed to maintain and extend life are utilized, including intubation and mechanical ventilation. Use intubation, advanced airway interventions, vasopressors, mechanical ventilation and electrical cardioversion as indicated. Transfer to hospital and use of intensive care, as medically indicated, will be appropriate.

If an individual elects to Attempt CPR in Section A, Intubation and Mechanical Ventilation must be selected in Section B.

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## Section C: Artificially Administered Nutrition

| C<br>Check One *(optional)* | **ARTIFICIALLY ADMINISTERED NUTRITION** Offer food by mouth, if feasible and as desired. | |
|---|---|---|
| | ❑ No artificial nutrition by tube. | **Additional Instructions (e.g., length of trial period)** |
| | ❑ Defined trial period of artificial nutrition by tube. | ________________________________ |
| | ❑ Long-term artificial nutrition by tube. | ________________________________ |

These orders indicate the person's instructions regarding the use of artificially administered nutrition for a situation where he or she cannot take adequate food or fluids by mouth. Oral fluids and nutrition must always be offered to the person if they are desired and it is medically feasible.

If long-term artificial nutrition by tube is medically indicated and desired by the person, then the appropriate box is checked. An option of a defined trial period of artificial nutrition by tube can allow time to determine the course of an illness or allow the person an opportunity to clarify his or her goals of care. Depending on the length of the trial period, less invasive forms of tube feeding should be considered before deciding on permanent placement options.

No artificial nutrition by tube should be provided for a person who refuses this treatment or if it is not medically indicated. An example of “not medically indicated” would be persons residing in nursing homes with advanced progressive dementia where studies show that individuals do not live longer with a permanent feeding tube and often experience uncomfortable feeding tube related side effects.

Additional Instructions may be used to identify the individual’s related values and beliefs about living well. It may also include the preferred length of the trial period.

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## Section D: Documentation of Discussion

| D | DOCUMENTATION OF DISCUSSION (Check all appropriate boxes below) | | |
|---|---|---|---|
| | ❑ Patient | ❑ Agent under health care power of attorney | |
| | ❑ Parent of minor | ❑ Health care surrogate decision maker (See Page 2 for priority list) | |
| | **Signature of Patient or Legal Representative** | | |
| | Signature ***(required)*** | Name (print) | Date |
| | **Signature of Witness to Consent** (Witness required for a valid form)<br>I am 18 years of age or older and acknowledge the above person has had an opportunity to read this form and have witnessed the giving of consent by the above person or the above person has acknowledged his/her signature or mark on this form in my presence. | | |
| | Signature ***(required)*** | Name (print) | Date |

The professional completing the form should check the box(es) indicating everyone with whom the orders were discussed. This is especially important when the form is being completed by the patient, so that future care health care professionals and providers will know that these orders represent the patient's known care choices.

The form should be signed by the patient who has decisional capacity whenever possible. "Decisional capacity" means the ability to understand and appreciate the nature and consequences of a decision regarding medical treatment or forgoing life-sustaining treatment coupled with the ability to reach and communicate an informed decision. If the patient lacks decisional capacity, and is not expected to regain that capacity in time to make decisions, the patient's decisional capacity assessment should be documented in the medical record before the POLST form is signed by the individual's legal representative. A legal representative may be a POAHC or, if there is no agent, the properly appointed Surrogate (see the Illinois Health Care Surrogate Act for the full appointing instructions).

The signature of the individual (or the Legal Representative) provides evidence that the responsible party agrees with the orders on the form. In this respect, the requirement that patients or their legal decision-maker review and sign the form provides a safeguard for patients that the orders on the form accurately convey the patient's preferences.

The form requires the signature of one witness over the age of 18 who attests that the patient or legal representative has had an opportunity to read the form, and has signed the form or acknowledged his or her signature or mark on the form in the presence of the witness. Although it is not mentioned in the law itself, the IDPH has noted on its website that a "witness may include a family member, friend or health care worker."
A health care professional who is providing direct medical care to the patient often serves as the witness.

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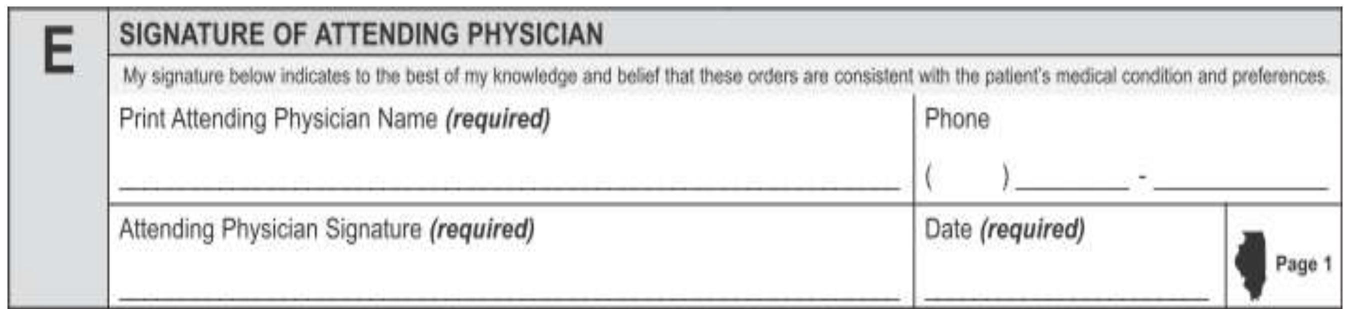
## Section E: Signature of Attending Physician



| E | SIGNATURE OF ATTENDING PHYSICIAN | | |
|---|---|---|---|
| | My signature below indicates to the best of my knowledge and belief that these orders are consistent with the patient's medical condition and preferences. | | |
| | Print Attending Physician Name ***(required)*** | Phone ( ) ________ - ____________ | |
| | Attending Physician Signature ***(required)*** | Date ***(required)*** | Page 1 |

Currently, Illinois law requires the signature of an attending physician who assumes responsibility for the medical indications of the orders and for assuring that they accurately reflect the individual patient's values and treatment preferences.

When completing the original form, a single original which contains all of the required signatures is encouraged. In general, faxed or electronic signatures and telephone orders should only be used in accordance with facility/community policies to ensure the patient does not lose the opportunity to complete or modify a form, as appropriate.

A completed form that does not contain the signature of an attending physician is NOT valid.

## The Reverse Side of the POLST Form

| ****THIS SIDE FOR INFORMATIONAL PURPOSES ONLY**** | | |
|---|---|---|
| Patient Last Name | Patient First Name | MI |
| The Illinois Department of Public Health (IDPH) Uniform Do Not Resuscitate (DNR) Advance Directive is **always voluntary** and is for persons with advanced or serious illness or frailty. This order records your wishes for medical treatment in your current state of health. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and this form can be changed to reflect your new wishes at any time. However, no form can address all the medical treatment decisions that may need to be made. The Power of Attorney for Health Care Advance Directive form (POAHC) is recommended for all capable adults, regardless of their health status. A POAHC allows you to document, in detail, your future health care instructions and name a Legal Representative to speak for you if you are unable to speak for yourself. | | |
| **Advance Directive Information** | | |
| **I also have the following advance directives (OPTIONAL)** | | |
| ❑ Health Care Power of Attorney | ❑ Living Will Declaration | ❑ Mental Health Treatment Preference Declaration |
| Contact Person Name | Contact Phone Number | |
| **Health Care Professional Information** | | |
| Preparer Name | Phone Number | |
| Preparer Title | Date Prepared | |

The POLST form includes an educational section for the patient and/or legal representative. This section is included to help patients know who the POLST form is intended to serve and the role the POLST form plays in advance care planning.

If the individual has other advance directives, that information may be captured in the Advance Directive Information section. It is particularly helpful for future health care professionals/providers to know of any other directives and to have the name and phone number of the preferred emergency contact.

In the future, questions may arise when health care professionals who were not part of the original conversation attempt to interpret the orders on the form. For this reason, it is very helpful then to have the name and phone number of the health care professional who assisted in the preparation of the original form. That name and phone number should be included in the Health Care Professional Information section.

***Other Instructions Are Included on Back of Form:***

## Completing the IDPH Uniform Do Not Resuscitate (DNR) Advance Directive Form

- **The completion of a DNR form is always voluntary, cannot be mandated and may be changed at any time.**
- A DNR form should reflect current preferences of persons with advanced or serious illness or frailty. Also, encourage completion of a POAHC.
- Verbal/phone orders are acceptable with follow-up signature by attending physician in accordance with facility/community policy.
- Use of original form is encouraged. Photocopies and faxes on any color of paper also are legal and valid forms.

### Reviewing a Do Not Resuscitate (DNR) Advance Directive Form

This DNR form should be reviewed periodically and if:

- The patient is transferred from one care setting or care level to another,
- or there is a substantial change in the patient's health status,
- or the patient's treatment preferences change,
- or the patient's primary care professional changes.

### Voiding or revoking a Do Not Resuscitate (DNR) Advance Directive Form

- A patient with capacity can void or revoke the form, and/or request alternative treatment.
- Changing, modifying or revising a DNR form requires completion of a new DNR form.
- Draw line through sections A through E and write "VOID" in large letters if any DNR form is replaced or becomes invalid. Beneath the written "VOID" write in the date of change and re-sign.
- If included in an electronic medical record, follow all voiding procedures of facility.

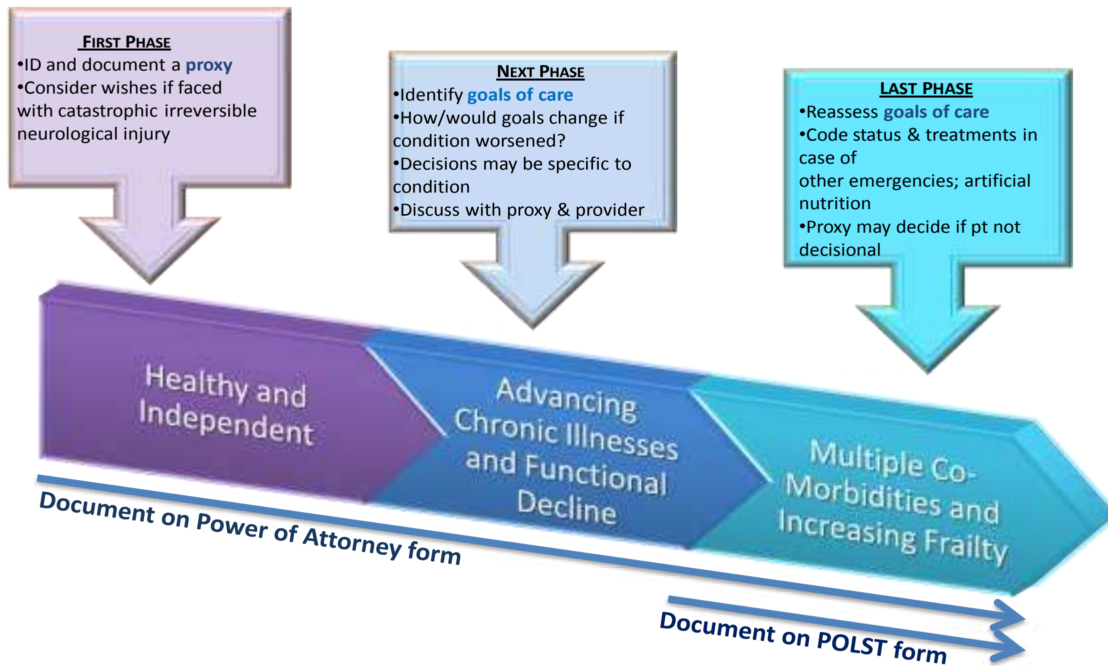
### Illinois Health Care Surrogate Act (755 ILCS 40/25) Priority Order

1. Patient's guardian of person
2. Patient's spouse or partner of a registered civil union
3. Adult child
4. Parent
5. Adult sibling
6. Adult grandchild
7. A close friend of the patient
8. The patient's guardian of the estate

For more information, visit the IDPH Statement of Illinois law at
http://www.idph.state.il.us/public/books/advin.htm

**HIPAA (HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT of 1996) PERMITS DISCLOSURE TO HEALTH CARE PROFESSIONALS AS NECESSARY FOR TREATMENT**

# How the Power of Attorney for Health Care and POLST Work Together




**The Power of Attorney for Health Care Document**

Recommended for all decisional adults – regardless of their health status – the Power of Attorney for Health Care is the legal document for Illinois that allows individuals to:

- Appoint a proxy decision-maker, known as an agent, to make health care decisions for individuals who become unable to communicate for themselves; and

- Provide general, non-binding statements of preferences for end-of-life care to serve as guidance for the agent.

The agent should act in accordance with the patient's known or predicted preferences. If the patient's wishes are unknown and cannot be predicted, the decision-maker should act in the patient's best interest.

**Key Differences between the Power of Attorney for Health Care and POLST**

- The Power of Attorney for Health Care (POAHC) is not a medical order. Since emergency medical technicians (EMTs) cannot limit care in an emergency with only a POAHC document, unwanted treatments may be initiated.

- The POLST is a medical order that directs the initial care of the patient by EMT's and other first responders.

- A person uses the POAHC to appoint an agent to make medical decisions in cases when the person has lost decisional capacity.. The POAHC agent may also communicate a person's treatment preferences to providers.

- POAHC documents are recommended for all decisional adults, regardless of their health status. In addition, POLST forms are recommended for patients with advanced illness or the frail elderly.

**How the POAHC and POLST Work Together**

The POLST form and the Power of Attorney for Health Care work together for patients engaging in the "last phase" of advance care planning to ensure patient wishes are followed. The POLST form is not intended to replace a Power of Attorney for Health Care document or other medical orders.

Patients with decisional capacity can change the POLST form at any time to reflect changing circumstances. When treatment has been initiated and more medical information becomes available regarding diagnosis, prognosis and potential outcomes, the patient's goals and preferences may change.

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# Implementing a POLST Form

**The Patient Discussion**

Advance care planning is an important means of promoting respect for self-determination and in improving end-of-life care. The POLST discussion is critical to that process for appropriate patients who should have a POLST form (see p.2). The literature suggests that patients are waiting for their health care professionals and providers to broach the topic. Even though multiple educational resources exist for advance care planning facilitation training, many health care professionals and other care providers feel that they do not have the time or the skills to facilitate advance care planning/POLST discussions.

Ideally, the IDPH Uniform DNR Advance Directive/ POLST form should be completed following discussion with the patient based on the patient's overall condition and treatment preferences.. However, if the patient lacks decisional capacity, the discussion should occur with the patient's appropriate legal representative. It should be noted that studies consistently show that decisions made by proxies/representatives tend to be more medically aggressive and less accurate than the patient's stated references.

Decisional capacity is not "all or nothing;" the patient may be able to make some but not all decisions. Multiple educational resources exist for training in assessing decisional capacity. When the discussion and form are completed by a legal representative, it should be reviewed with a patient who has subsequently regained decisional capacity to ensure that the patient agrees to the provisions.

The POLST discussion may be facilitated by health care professionals/providers other than a physician, including nurses, social workers, chaplains, care managers and ethicists, who have knowledge of end-of-life care issues and have been trained to conduct these conversations. The same professional staff may also assist the patient or legal representative with the completion of the form; however, the form must be signed by an attending physician. Illinois law defines "Attending physician" to mean "the physician selected by or assigned to the patient who has primary responsibility for treatment and care of the patient and who is a licensed physician in Illinois. If more than one physician shares that responsibility, any of those physicians may act as the attending physician under this Act."(755 ILCS 40/10)

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**When a Patient is Determined by the Physician to Lack Decisional Capacity to Complete a POLST**

For a legal representative to be authorized to act on behalf of a non-decisional patient, the physician must determine, based on medical judgment, that the patient lacks decisional capacity. Illinois law (755 ILCS 40/10) defines "Decisional capacity" to mean "the ability to understand and appreciate the nature and consequences of a decision regarding medical treatment or forgoing life-sustaining treatment and the ability to reach and communicate an informed decision in the matter as determined by the attending physician."

If the patient is determined by the physician to lack decisional capacity, the discussion should then involve the appropriate legal representative, who may include:

- The agent appointed by the Power of Attorney for Health Care, or (if there is no Power of Attorney, or the Power of Attorney agent is unavailable);

- The Surrogate, in hierarchical order, under the Illinois Healthcare Surrogate Act:
    - The patient's guardian of the person;
    - The patient's spouse or partner of a registered civil union;
    - Adult son or daughter of the patient;
    - Either parent of the patient;
    - Adult brother or sister of the patient;
    - Adult grandchild of the patient;
    - A close friend of the patient;
    - The patient's guardian of the estate.

The Illinois Health Care Surrogate Act goes on to specify:

> "Where there are multiple surrogate decision makers at the same priority level in the hierarchy, it shall be the responsibility of those surrogates to make reasonable efforts to reach a consensus as to their decision on behalf of the patient regarding the forgoing of life-sustaining treatment. If 2 or more surrogates who are in the same category and have equal priority indicate to the attending physician that they disagree about the health care matter at issue, a majority of the available persons in that category (or the parent with custodial rights) shall control, unless the minority (or the parent without custodial rights) initiates guardianship proceedings in accordance with the Probate Act of 1975. No health care provider or other person is required to seek appointment of a guardian."

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If the patient has appointed an agent under the Power of Attorney for Health Care, the agent can make the same decisions regarding medical treatment as the patient could when he or she was decisionally capable. The POAHC is expected to make decisions that the patient would have made for him or herself.

**Surrogates under the Illinois Health Care Surrogate Act are restricted from withholding/withdrawing life-sustaining treatment (Sections B and C) unless two physicians have documented in the medical record that the patient has a "qualifying condition."**

According to the Surrogate Act, a qualifying condition is: a terminal condition, permanent unconsciousness, or an incurable or irreversible condition that will ultimately cause the patient's death despite life-sustaining treatment and such treatment imposes an inhumane or overwhelming burden. This restriction does not apply to DNR orders in case of cardiac arrest (Section A). This restriction also does not apply to agents under the Power of Attorney for Health Care.

## IDPH Uniform DNR Advance Directive/ POLST Form Transmission and Storage

In institutional settings, the form should be easily accessible in the clinical record. It is important that institutions create policies to insure easy access to the form in an emergency and protocols for transferring the form with the patient.

In the individual's home or residential facility, it is recommended that the form be kept in a readily available place known by caregivers and/or family members, such as a refrigerator or bedroom door. Some states recommend placing the POLST form in a brightly colored envelope on the refrigerator or on the inside of the front door. The color enhances visibility, while the envelope protects privacy.

It is recommended that the POLST form be on bright pink paper for easy identification, but the document on white or any color paper is recognized as valid. Electronic, photocopies and fax copies of the form are valid.

## Identification of Existing IDPH Uniform DNR Advance Directive/POLST Form

A completed previous version of the IDPH Uniform DNR Advance Directive remains valid unless replaced by a new completed form. The most recent version should be honored.

When the older version of the form is signed by a patient who subsequently loses and is not expected to regain decisional capacity, any new form should capture the patient's instructions as closely as possible.

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**When a Substitute Decision-Maker Considers Changes to an Existing IDPH Uniform DNR Advance Directive/POLST Form Previously Completed by a Decisional Patient**

When a decisional patient completes a POLST form and subsequently becomes non-decisional, circumstances may arise that call for a reconsideration of the choices reflected on the form.

The agent is responsible to update POLST instructions to be consistent with a patient's preferences as the patient's health status changes. Extreme care should be exercised if a substitute decision-maker wishes to **reverse the direction of care** previously established by the patient. A legal representative may make new decisions, but generally should not be permitted to overturn decisions already made by the patient unless there is evidence that the patient had faulty information, misunderstood the information given, or would have changed decisions based on current developments in his or her medical condition.

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# POLST Use for Patients Near the End of Life with Significant Physical Disabilities, Developmental Disabilities and/or Significant Mental Health Conditions

Special consideration is required when completing a POLST form for a patient with significant physical disabilities, developmental disabilities, and/or a significant mental health conditions. These patients have the right to the highest quality of care for their chronic disability and/or conditions at the end of their life.

Unfortunately, many patients with disabilities experience bias resulting in under-treatment and/or have their chronic health conditions mistaken for illnesses as they near the end of life. The challenge to the health care professional and provider is to discern when such a patient is transitioning from a stable chronic disability or condition to a terminal illness. The POLST form should not be used solely because a patient has a disability or mental illness.

**Evaluation of Condition, Capacity and Identifying Appropriate Decision-Maker**

To ensure appropriate decisions are being made for the patient, the health care professional and provider should:

1) Determine if the patient has a condition or status that warrants POLST form completion;

2) Determine if the patient has the capacity to contribute to his or her health care decisions; and

3) If the patient lacks decisional capacity, then determine the appropriate legal representative. It should not be assumed that a patient lacks capacity solely because he or she has a cognitive or psychiatric disability.

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**Assessment Process**

**1. Determine if the patient has a condition that warrants form completion.**

An IDPH Uniform DNR Advance Directive/POLST form should be completed on the basis of a deteriorating, irreversible health condition. Health care professionals and providers can use several questions to determine if the form may be warranted:

- Does the patient have a disease process (not just their stable disability) that is terminal;
- Is the patient experiencing a significant decline in health (such as frequent aspiration pneumonias);
- Is the patient in a palliative care or hospice program; and/or
- Has this patient's level of functioning become more severely impaired as a result of a deteriorating health condition when intervention will not significantly affect the process of decline?

It is important to be mindful that it is for individuals or their legal representatives (where appropriate) to make quality of life determinations. It is not unusual for health care professionals to underestimate, at times by decades, the projected lifespan of persons with significant disabilities.

**2. Determine if the patient has the capacity to make or contribute to his or her health care decisions.**

A patient has decisional capacity if he or she: understands basic information; appreciates the consequences of a decision; evaluates the information rationally; and can communicate a decision.

People with disabilities mirror the population in that they have a wide range of abilities. Some people can make simple health care decisions, some can make complex ones. Many have the capacity to appoint a health care agent. All patients should be given the opportunity to participate to their decision-making to the full extent that their capacity will allow. Individuals should either appoint a health care agent or provide input regarding who should be appointed. Patients should be asked to provide input regarding their health care as much as possible.

Even when individuals have lost some of their capacity to make their own decisions, they may still express fears or other wishes that should continue to be respected during

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the decision-making process. To the greatest degree possible, patients should be involved in their health care decisions.

For those individuals who have never had decisional capacity, the process can be challenging. Family members, friends and staff working with the individual usually can assist in determining the patient's likes and dislikes, and they can help develop a plan that protects the individual's rights, best interests and personal preferences.

**3. Determine the appropriate substitute decision-maker.**

Approach to identifying the appropriate substitute decision-maker for a patient who lacks decisional capacity is described on page 17.

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# Additional Considerations

**Using the IDPH Uniform DNR Advance Directive/POLST Form with Children**

The form can be used to clarify treatment orders for children with advanced or serious illness. For a child, either custodial parent or a guardian has the authority and responsibility to consent or refuse consent to health care for minors who are unable to consent for themselves. Since arrests in most children are primarily respiratory, a child is more likely to be found with a pulse than an adult. If a child has any respiratory effort or pulse, the child should be treated as directed under Section B.

**Using the IDPH Uniform DNR Advance Directive/POLST Form with an Interpreter**

Health care translation services should be used when the patient and/or family/surrogate has limited English proficiency. The POLST form should be presented in English so that emergency medical personnel can understand and follow the orders. The IDPH POLST form is available in Spanish, and could be used under this circumstance for educational purposes.

**Addressing POLST Prior to Surgery or Other Invasive Procedures**

Completion of this form requires discussion and consent from the patient or legal representative. If the POLST orders are to be revoked or suspended for the duration of an invasive procedure, consent must be obtained from the patient or legal representative. In advance of the procedure, the health care professional should discuss the patient's objectives in having that procedure and the appropriateness of the orders in light of the proposed procedure. If consent is given for the orders to be revised prior to a procedure, the health care professional and the patient/legal representative should determine in advance when and how the orders are to be reinstated after the procedure. The individual(s) performing the procedure should be informed of these plans.

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# Glossary

Decisional Capacity: The ability to understand and appreciate the nature and consequences of a decision regarding medical treatment or forgoing life-sustaining treatment coupled with the ability to reach and communicate an informed decision. An individual who lacks this capacity is sometimes called "non-decisional" or "incapacitated."

Health Care Professionals/Health Care Providers: The distinction between these phrases varies. For the purpose of this document, these phrases are used interchangeably to refer to a patient's institutional providers and health care professionals.

IDPH Uniform DNR Advance Directive/POLST form: The revised version of the IDPH Uniform DNR Advance Directive, this document is designed to help primary care and other physicians, other health care professionals, long-term care facilities, hospitals, hospices, home health agencies and emergency medical services know and honor a patient's wishes regarding use of life-sustaining treatments. POLST stands for Physician Orders for Life-Sustaining Treatment. This form is a signed medical order for documenting the life-sustaining treatment wishes of seriously ill patients. For the purpose of this document, "IDPH Uniform DNR Advance Directive," "IDPH Uniform DNR Advance Directive/POLST form," "POLST form," and "the form" all refer to this document.

Illinois Health Care Surrogate Act: The Illinois law that assists health care professionals and institutional providers in identifying, by defined hierarchy, the appropriate person to make decisions on behalf of a non-decisional patient who has not completed a Power of Attorney for Health Care document.

Power of Attorney for Health Care (POAHC): The Illinois legal document that allows individuals to:

- Appoint a proxy decision-maker, known as an agent/representative, to make health care decisions if an individual becomes unable to communicate for themselves; and

- Provide a general, non-binding statement of preferences for end-of-life care to serve as guidance for the agent.

Legal Representative: The individual identified as the appropriate person to make decisions on behalf of a non-decisional patient. The legal representative may be a legal guardian, agent under power of attorney for health care, or surrogate under the Illinois Health Care Surrogate Act. This person serves as the "legal representative" in completion of a POLST form when the patient is non-decisional.

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For more information on POLST, go to:
http://www.idph.state.il.us/public/books/advin.htm
http://www.polst.org/
http://www.cecc.info/resource-links/physicians-order-for-life-sustaining-treatment-polst
www.polstil.org

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