

To: Health Care Colleagues in the Commonwealth

From: Members of the MA MOLST Advisory Subcommittee and the MA Guardianship-MOLST Committee

Re: Urgent MOLST Documentation Standards and Verbal Consent

Date: April 1, 2020

Our most fundamental obligation as health care providers is to provide each patient the best care possible to achieve their care goals and respect their care choices.

In this time of Covid-19, patients who are medically frail, seriously ill or considered high risk are feeling especially vulnerable and worried. Clinicians and care providers are proactively engaging adults in care planning conversations to discuss prognosis and treatment options, and to create a care plan that aligns with each individual's goals, priorities and care choices. In many cases, clinicians document patient choices by completing a Medical Order for Life Sustaining Treatment (MOLST) form, or reviewing and revising an existing MOLST form. A MOLST form is honored by all licensed health care providers across all health settings.

During this public health crisis, telemedicine and telephonic communications are the preferred way, and often the only possible way, for clinicians and patients to discuss care options, as patients, their families and legal surrogates are advised to stay at home and limit travel to physicians' offices and clinics, and are often barred from hospital and long term care visitation.

It is therefore often impossible for clinicians to have face-to-face MOLST conversations, or to execute a MOLST form with the written consent/signature of a patient, their Health Care Agent (Agent) and Guardian. Where a written consent/signature is not possible, hospitals have already moved to obtaining verbal consent on the MOLST form, guided by their informed consent policies, adapted as necessary for this crisis period. At the same time, state regulations regarding MOLST have not (yet) been formally adopted. We therefore believe that ensuring that every patient in the Commonwealth receives equitable and appropriate care, i.e. care that is anchored in their own care goals, and that respects their own care choices requires two things:

1. Whenever it is impossible to follow usual MOLST standards requiring written signatures, clinicians should document on the MOLST form the patient, Agent and Guardians verbal consent, witnessing of this verbal consent in accordance with local institutional standards, and documenting in the medical record details of how verbal consent was obtained.
2. Appropriate state authorities should immediately formally suspend, for the duration of this crisis period, the standard requirement of written consent/signature on a MOLST form, and allow for verbal consent, so that patients' wishes can be reliably honored by all first responders and licensed practitioners in hospitals, long term care facilities and across all health care settings.

This approach is fully consistent with rapidly-emergency national standards. National POLST endorses witnessed verbal consent on MOLST/POLST forms, as do as many other states.

We endorse this approach as members of the MA MOLST Advisory Subcommittee and of the MA Guardianship-MOLST Committee, working to bring the MA MOLST form and processes into full compliance with National POLST standards of care at the earliest possible date.

Lachlan Forrow, MD, Beth Israel Lahey Health

Ellen DiPaola, President, Honoring Choices Massachusetts

David Sontag, Managing General Counsel; Beth Israel Lahey Health

Diane Dietzen, MD, Baystate Health

Erik Fromme, MD, Dana-Farber Cancer Center, Ariadne Labs

Tara Gregorio, Executive Director, Mass Senior Care

Erin Liang, Massachusetts Health & Hospital Association

Christine McMichael, Executive Director, Hospice & Palliative Care Federation of MA

Sarah Peterson, Deputy General Counsel, MA Department of Developmental Services

Jennifer Reidy, MD, UMass Memorial Health Care

Eric Reines, MD, Massachusetts Medical Society

Brandon Saunders, Esquire, RBSK Law Offices