

The POLST: Understanding an Intersection of Medicine and the Law

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Advance Healthcare Directives are a compelling subject in Elder Care Law. People naturally have very strong opinions about how their care should be handled if they cannot communicate for themselves.

These strong opinions serve as the genesis for Advance Healthcare Directives. An Advance Healthcare Directive enables an individual to memorialize his or her healthcare wishes in writing as well as appoint a trusted person to effectuate those wishes. The most common Advance Healthcare Directives are Health Care Powers of Attorney and Living Wills.

That said, there are a variety of documents which seek to effectuate an individual's medical treatment wishes above and beyond Healthcare POAs and Living Wills, namely the Physician Order for Life-Sustaining Treatment ("POLST"). This article will explore the history and usage of the POLST and how it fits into the Advance Healthcare Directive puzzle.

A Brief History of the POLST

The Pennsylvania Orders for Life Sustaining Treatment is, in part, the culmination of years of legislative history, spanning multiple jurisdictions. A good starting point for this discussion is *The Patient Self Determination Act of 1990*. This law bucked a prior trend of hospitals and facilities not inquiring as to a patient's knowledge of advance directives or whether said patient had an advance health directive in place.

Health care professionals began interviewing patients to see if they were in possession of an advance health directive. The healthcare professional would either educate the patient on advance health directives if he or she did not have one, or incorporate an existing document into the patient's medical records.

The Patient Self Determination Act of 1990 was followed by the Pennsylvania Order for Life Sustaining Treatment of 1991. This document was the product of a Federally funded study at the Oregon Health and Science University with the goal of addressing the need for a universal, useful advance health directive.

Lastly, ACT 169, signed into law in November of 2006 mandated the formation of a "Pennsylvania Life Sustaining Wishes Committee" to create a standardized life sustaining wishes form similar to the POLST document mentioned above. Four years later, the Pennsylvania Department of Health approved the "Pennsylvania Orders for Life-Sustaining Treatment" document. This document is similar in both name and function to the POLST of Oregon.

What is a POLST Form?

A POLST Form is a doctor's order mandating which procedures and treatments an individual wishes to authorize or refuse as a course of his or her ongoing care. This form is completed pursuant to a voluntary conversation between a physician and a patient (or the patient's Agent pursuant to a valid Healthcare POA).

In this conversation, both parties must discuss the goals and philosophies of ongoing treatment, probability of success in recovery and general outlook toward the dying process. This differs from a Healthcare POA or Living Will because, unlike the former which is an outline of an individual's wishes, the POLST form is a physician's order.

A completed POLST Form is also portable and can be carried in a patient's medical file from their home, to a hospital, skilled nursing facility, rehabilitation center, or any other healthcare facility.

The POLST Form is separated into four sections as explained below:

1. **Cardiopulmonary Resuscitation (CPR):** Addresses whether a patient authorizes the use of CPR in a medical emergency;
2. **Medical Interventions:** Addresses an individual's preference on going to the hospital and for what treatments should they be found unconscious, but with a pulse and breathing;
3. **Antibiotics:** Addresses whether a patient authorizes the use of antibiotics in certain situations; and
4. **Artificially Administered Hydration/Nutrition:** Addresses a patient's preference when he or she can not accept food or liquids by mouth.

Importance of The POLST

The POLST can be a vitally important document for an individual facing a terminal disease or an end-stage medical condition. Unlike basic estate planning documents, this is a physician's order and accompanies a patient in their medical records.

With this in mind it is of the utmost importance that this document is drafted properly. This requires frequent review of an individual's current health status compared to their wishes as indicated in their POLST Form. Furthermore, if other Advance Healthcare Directives exist, it is important that these documents are taken into consideration when drafting a POLST Form.

In summation, the POLST is a high-caliber Advance Healthcare Directive generated by years or precedent set by legal and medical influences. It can be a useful tool in a patient's overall estate plan, but must be drafted properly.