

"Physician Order for Life-Sustaining Treatment" Coalition  
Nevada State Medical Association Board Room-Reno (3660 Baker Lane)  
Nevada State Medical Association Office-Las Vegas (2590 Russell Road  
Telephone Conference (1-877-402-9753; access code: 1789830)  
**Monday June 4, 2012 - 3:00-4:00 pm**

Tentative Agenda

- I. Call to Order/Introductions
- II. Minutes (5-7-12)\*
- III. Restate Purpose of Coalition: To develop, adopt legislatively and implement a POLST in Nevada and to assure the availability of POLST and all Nevada Advance Directives on any State approved "Health Information Exchange"
- IV. Draft Nevada POLST Form\* (Please have your organization's legal counsel review before meeting if possible)
- V. Draft POLST Statutory Language\*
- VI. Next Steps
  - a. Identify organizations and institutions for coalition
  - b. Meet with Ellen Hickey of the "Coalition for Compassionate Care for California" (<http://www.coalitionccc.org/>)
  - c. Set up meetings to discuss proposed form and statute
    - i. Governor Bryan Sandoval (Ann Wilkinson and Heidi Gansert)
    - ii. Secretary of State Ross Miller
    - iii. Attorney General Katherine Mastro
    - iv. Legislative Committee on Health Care Members
    - v. DHHS Director Michael Willden
  - d. Identify Potential Bill Sponsors
- VII. Next Meeting
- VIII. Adjourn

"Physician Order for Life-Sustaining Treatment" Coalition  
Minutes  
Monday May 7, 2012

1. The meeting was called to order by Larry Matheis at 3:10pm. The following were in attendance: T. Brian Callister, MD; Bill Berliner, MD; Donna Thorson; Jeff Gingold, MD; Sally Hardwick; Mary Ann Brown; Lynn O'Mara; Stephanie Hogan; Phil Lisagor, MD; Kelle Brogan, MD; Mitch Nowicki; Susan Lynch; Amber Joiner; Larry Matheis.
2. The group reviewed the summary form (SMOST) that is used voluntarily in Nevada and the Oregon POLST form, which was the first adopted in the country. The group decided that the "Nevada Summary of Medical Orders for Scope of Treatment" (SMOST) form should be converted into a "Nevada POLST" form. Everyone was requested to review the form for any changes that should be made and send them to Larry Matheis, who will then redraft the form and send it to the group for review before the next meeting.
3. The group decided that successful adoption and implementation of a POLST would require statutory adoption to be used by health care facilities and other health care professionals. It should also replace the need for a separate "Prehospital DNR" form and process for EMS. Larry Matheis will develop an approach for a draft bill for the group to review before the next meeting.
4. Using draft language for the form and statute, the group will schedule appointments with key legislators, the Governor, DHHS Director Michael Willden, and Secretary of State (regarding the "Living Will Lockbox"). Legislative bill sponsors will be sought.
5. There was an extensive discussion about making certain that "Nevada Health Information Exchange" rules (which will be written under federal guidelines by a new HIT State Committee advising the DHHS) require all Nevada Advance Directives be available as part of the EHRs available on any State-certified HIE. The POLST would be included in this, but would probably have to be incorporated in the statute as an advance directive first. We'll work with State HIT Coordinator Lynn O'Mara on these proposed regulations.
6. Everyone was asked to look at the e-mail list to make sure that those who may have an interest in the issue be invited to participate.
7. The group will reconvene in several weeks. Again, the Nevada State Medical Association Las Vegas and Reno offices will be available as will a telephone conference number.
8. The meeting adjourned at 3:55pm.

**SIDE 1: Summary of Medical Orders**

Follow these orders until orders change. These medical orders are based on the patient's current medical condition and preferences. When the need arises, <u>this form should guide treatment decisions</u> . Any section not completed does not invalidate the form and implies full treatment for that section.	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="3" style="padding: 2px;">Last Name/First/Middle Initial</td> </tr> <tr> <td style="width: 50%; padding: 2px;">Date of Birth (dd/mm/yr)</td> <td style="width: 25%; padding: 2px;">Last 4 SSN</td> <td style="width: 25%; padding: 2px;">Gender</td> </tr> <tr> <td style="text-align: center; padding: 5px;">/ /</td> <td style="text-align: center; padding: 5px;">_ _ _ _</td> <td style="text-align: center; padding: 5px;">M F</td> </tr> </table>	Last Name/First/Middle Initial			Date of Birth (dd/mm/yr)	Last 4 SSN	Gender	/ /	_ _ _ _	M F										
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<b>Section A</b> CPR Check one only	<p><b>Cardiopulmonary Resuscitation (CPR).</b> <i>Patient/resident has no pulse <u>and</u> is not breathing</i></p> <p> <input type="checkbox"/> Attempt Resuscitation (CPR)                      <input type="checkbox"/> Do Not Attempt Resuscitate (Allow Natural Death)                  (See Section B: Full Treatment required)    If available, EMS-DNR # _____             </p> <p><input type="checkbox"/> Limited Medical Intervention: See Section B</p> <p><b>When not in cardiopulmonary arrest follow orders in Section B</b></p>																			
<b>Section B</b> Interventions	<p><b>MEDICAL INTERVENTIONS.</b> <i>Patient/resident has pulse and/or is breathing</i></p> <p><b>1. <input type="checkbox"/> Comfort Measures Only.</b> The patient/resident is treated with dignity, respect and kept clean, warm and dry. Reasonable measures are made to offer food and fluids by mouth, and attention is paid to hygiene. Medication, positioning, wound care and other measures are used to relieve pain and suffering. Oxygen, suction and manual treatment of airway obstruction may be used as needed for comfort. These measures are to be used where the patient/resident lives. The patient/resident is not to be hospitalized unless comfort measures fail.  <i>Other Instructions:</i> _____</p> <p><b>2. Life-Sustaining Antibiotics</b></p> <p> <input type="checkbox"/> No antibiotics. Use other measures to relieve symptoms  <input type="checkbox"/> Administer antibiotics by mouth as necessary  <input type="checkbox"/> Administer antibiotics IV as necessary  <i>Other instructions</i> _____             </p> <p><b>3. Artificially Administered Fluids and Nutrition. Comfort measures always provided.</b></p> <table style="width:100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> No feeding tube</td> <td style="width: 50%; border: none;"><input type="checkbox"/> No IV fluids</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Defined trial period of feeding tube</td> <td style="border: none;"><input type="checkbox"/> Defined trial period of IV fluids</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Long term feeding tube</td> <td style="border: none;"><input type="checkbox"/> Long term IV fluids</td> </tr> </table> <p><i>Other Instructions:</i> _____</p> <p><b>4. Other Limitations of Medical Interventions</b></p> <table style="width:100%; border: none;"> <tr> <td style="width: 50%; border: none;"><input type="checkbox"/> No intensive care admission</td> <td style="width: 50%; border: none;"><input type="checkbox"/> No lab work</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> No x-ray</td> <td style="border: none;"><input type="checkbox"/> No antiarrhythmic drugs</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> No IV (assure agreement with 2 &amp; 3 above)</td> <td style="border: none;"><input type="checkbox"/> No dialysis</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> No hyperalimentation</td> <td style="border: none;"><input type="checkbox"/> <i>Other instructions:</i></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> No electrolyte or acid/base corrective measures</td> <td style="border: none;">_____</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;">_____</td> </tr> </table> <p><b>5. <input type="checkbox"/> Full Treatment.</b> Includes care above plus endotracheal intubation and cardioversion.</p>		<input type="checkbox"/> No feeding tube	<input type="checkbox"/> No IV fluids	<input type="checkbox"/> Defined trial period of feeding tube	<input type="checkbox"/> Defined trial period of IV fluids	<input type="checkbox"/> Long term feeding tube	<input type="checkbox"/> Long term IV fluids	<input type="checkbox"/> No intensive care admission	<input type="checkbox"/> No lab work	<input type="checkbox"/> No x-ray	<input type="checkbox"/> No antiarrhythmic drugs	<input type="checkbox"/> No IV (assure agreement with 2 & 3 above)	<input type="checkbox"/> No dialysis	<input type="checkbox"/> No hyperalimentation	<input type="checkbox"/> <i>Other instructions:</i>	<input type="checkbox"/> No electrolyte or acid/base corrective measures	_____		_____
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<b>Section C</b> Physician Signature	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 20%; padding: 2px;">Date</td> <td style="padding: 2px;">Physician Signature</td> </tr> </table>	Date	Physician Signature	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Physician Name (print)</td> </tr> <tr> <td style="padding: 2px;">Physician Office Address</td> </tr> <tr> <td style="padding: 2px;">Physician Phone</td> </tr> </table>	Physician Name (print)	Physician Office Address	Physician Phone													
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**Send original with patient when discharged or transferred**

COPY FOR ARCHIVAL PURPOSES ONLY

**SIDE 2: Patient Preferences**

<p><b>Section D</b> Organ Donation</p>	<p><b>ORGAN DONATION</b></p> <p><input type="checkbox"/> I do not wish to donate my organs</p> <p><input type="checkbox"/> I wish to donate any organs deemed useful</p> <p><i>Other Instructions:</i> _____</p>
<p><b>Section E</b> Advance Directive</p>	<p><b>The following documents/persons have further information regarding patient's/resident's preferences:</b></p> <p><b>1. Advance Directive (AD):</b> Living Will, Declaration, Durable Power of Attorney for Health Care</p> <p><input type="checkbox"/> NO    <input type="checkbox"/> YES    <b>If no AD skip to 2 below</b></p> <p>AD Registered with Secretary of State:    <input type="checkbox"/> NO    <input type="checkbox"/> YES - Registration no.: _____</p> <p>Other location: _____</p> <p>Appointed agent #1: _____ Telephone No: _____</p> <p>Appointed agent #2: _____ Telephone No: _____</p> <p><b>2. If no AD contact:</b> _____ Telephone No: _____</p> <p><b>3. Court-Appointed Guardian</b>    <input type="checkbox"/> NO    <input type="checkbox"/> YES    Name: _____</p> <p>Telephone No: _____</p>
<p><b>Section F</b> Signatures</p>	<p><b>Patient / Agent / Guardian (circle one) Approval</b></p> <p>I have discussed this form, its treatment options and their implications for sustaining life with my / the patient's health care provider. This form reflects my treatment preferences.</p> <p>Signature: _____ Date: _____</p> <p><b>The preferences of Sections A and B above were also discussed with and understood by:</b></p> <p><input type="checkbox"/> Spouse                                    <input type="checkbox"/> Adult child                                    <input type="checkbox"/> Court-Appointed Guardian</p> <p><input type="checkbox"/> Parent of Minor                            <input type="checkbox"/> Health Care Agent (DPOA)            Other: _____</p> <p>Witnessed by (any checked above): _____ Date: _____</p> <p><b>Preparer's Information</b></p> <p>Preparer's Name (print) _____ Date: _____</p> <p>Signature of Person Preparing Form _____</p>
<p><b>GENERAL INSTRUCTIONS</b></p> <p>Record all treatments entered on this SMOST as orders in patient's chart.                  Copy SMOST form for patient record.                  If orders change complete a new SMOST and write VOID across this SMOST.                  Transfer or discharge patient with a current SMOST form.</p> <p><b>WHEN THIS FORM SHOULD BE REVIEWED</b></p> <p>This form (SMOST) should be reviewed periodically and if:</p> <ul style="list-style-type: none"> <li>• The patient/resident is transferred from one care setting or care level to another, or</li> <li>• There is a substantial change in patient/resident health status, or</li> <li>• The patient/resident treatment preferences change.</li> </ul>	
<p align="center"><b>Send original with patient when transferred or discharged</b></p> <p align="center">COPY FOR ARCHIVAL PURPOSES ONLY</p>	

For Internal Use

## Adopting a Nevada POLST in Statute

NRS 449.535-449.690 (<http://leg.state.nv.us/NRS/NRS-449.html#NRS449Sec535>) addresses “Withholding or Withdrawal of Life-Sustaining Treatment” and uses the “Uniform Act on Rights of the Terminally Ill” as its model. This contains the “Living Will” and “Durable Power of Attorney” language and is applied to “Medical and Other Related Facilities”.

NRS 450B.400-450B.590 (<http://leg.state.nv.us/NRS/NRS-450B.html#NRS450BSec400>) addresses “Withholding Life-Sustaining Treatment” and is applied to “Emergency Medical Services”.

The placement of any statutory language is a decision made by the Legislative Counsel Bureau, but since a POLST is a physician order to other licensed health professionals, this language could be provided in NRS 629 (<http://leg.state.nv.us/NRS/NRS-629.html>), which deals with the “Healing Arts Generally” and applies to all “providers of health care”, but would then probably need to be cross-referenced in the chapters above.

Attached is a copy of the California Act, which has basic language that could be adapted for Nevada purposes.

## Assembly Bill No. 3000

### CHAPTER 266

An act to amend Sections 4780, 4782, 4783, 4784, and 4785 of, to amend the heading of Part 4 (commencing with Section 4780) of Division 4.7 of, and to add Sections 4781.2, 4781.4, and 4781.5 to, the Probate Code, relating to health care decisions.

[Approved by Governor August 4, 2008. Filed with  
Secretary of State August 4, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 3000, Wolk. Health care decisions: life-sustaining treatment.

Existing law defines a "request to forgo resuscitative measures" as a written document, signed by an individual, or a legally recognized surrogate health care decisionmaker, and a physician, that directs a health care provider to forgo resuscitative measures for the individual. Existing law provides that a health care provider who honors a request to forgo resuscitative measures is not subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, as a result of his or her reliance on the request, provided that he or she meets certain requirements.

This bill would make findings and declarations regarding health care planning. The bill would redefine a request to forgo resuscitative measures as a "request regarding resuscitative measures," which would be a written document, signed by an individual with capacity, or a legally recognized health care decisionmaker, and that individual's physician, that directs a health care provider regarding resuscitative measures. The bill would include within this definition a Physician Orders for Life Sustaining Treatment (POLST) form, as specified. The bill would authorize a legally recognized health care decisionmaker to execute the POLST form only if the individual lacks capacity, or the individual has designated that the decisionmaker's authority is effective, and would require a health care provider to explain the form, as specified. The bill would allow an individual having capacity to revoke a POLST form, as specified. The bill would require a health care provider to treat an individual in accordance with a POLST form, except as specified, and would permit a physician to conduct an evaluation of the individual and issue a new order consistent with the most current information available about the individual's health status and goals of care. The bill would require the legally recognized health care decisionmaker of an individual without capacity to consult with the individual's treating physician prior to making a request to modify that individual's POLST form, and would provide that an individual with capacity may at any time request alternative treatment to that treatment that was ordered on the form. The

bill would provide that if the orders in an individual's request regarding resuscitative measures directly conflict with his or her individual health care instruction, the most recent order or instruction is effective. The bill would also make conforming changes.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) It is important for people to make health care decisions before it is necessary.

(b) Health care planning is a process, rather than a single decision, that helps individuals think about the kind of care they would want if they become seriously ill or incapacitated, and encourages them to talk with their loved ones and physicians.

(c) Advance directives give individuals the ability to put their wishes in writing and to identify the person who would speak for them should they become unable to speak for themselves.

(d) The Physician Orders for Life Sustaining Treatment (POLST) form complements an advance directive by taking the individual's wishes regarding life-sustaining treatment, such as those set forth in the advance directive, and converting those wishes into a medical order.

(e) The hallmarks of a POLST form are (1) immediately actionable, signed medical orders on a standardized form, (2) orders that address a range of life-sustaining interventions as well as the patient's preferred intensity of treatment for each intervention, (3) a brightly colored, clearly identifiable form, and (4) a form that is recognized, adopted, and honored across treatment settings.

(f) A POLST is particularly useful for individuals who are frail and elderly or who have a compromised medical condition, a prognosis of one year of life, or a terminal illness.

SEC. 2. The heading of Part 4 (commencing with Section 4780) of Division 4.7 of the Probate Code is amended to read:

#### PART 4. REQUEST REGARDING RESUSCITATIVE MEASURES

SEC. 3. Section 4780 of the Probate Code is amended to read:

4780. (a) As used in this part:

(1) "Request regarding resuscitative measures" means a written document, signed by (A) an individual with capacity, or a legally recognized health care decisionmaker, and (B) the individual's physician, that directs a health care provider regarding resuscitative measures. A request regarding resuscitative measures is not an advance health care directive.

(2) "Request regarding resuscitative measures" includes one, or both of, the following:

(A) A prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form.

(B) A Physician Orders for Life Sustaining Treatment form, as approved by the Emergency Medical Services Authority.

(3) “Physician Orders for Life Sustaining Treatment form” means a request regarding resuscitative measures that directs a health care provider regarding resuscitative and life-sustaining measures.

(b) A legally recognized health care decisionmaker may execute the Physician Orders for Life Sustaining Treatment form only if the individual lacks capacity, or the individual has designated that the decisionmaker’s authority is effective pursuant to Section 4682.

(c) The Physician Orders for Life Sustaining Treatment form and medical intervention and procedures offered by the form shall be explained by a health care provider, as defined in Section 4621. The form shall be completed by a health care provider based on patient preferences and medical indications, and signed by a physician and the patient or his or her legally recognized health care decisionmaker. The health care provider, during the process of completing the Physician Orders for Life Sustaining Treatment form, should inform the patient about the difference between an advance health care directive and the Physician Orders for Life Sustaining Treatment form.

(d) An individual having capacity may revoke a Physician Orders for Life Sustaining Treatment form at any time and in any manner that communicates an intent to revoke, consistent with Section 4695.

(e) A request regarding resuscitative measures may also be evidenced by a medallion engraved with the words “do not resuscitate” or the letters “DNR,” a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority.

SEC. 4. Section 4781.2 is added to the Probate Code, to read:

4781.2. (a) A health care provider shall treat an individual in accordance with a Physician Orders for Life Sustaining Treatment form.

(b) Subdivision (a) does not apply if the Physician Orders for Life Sustaining Treatment form requires medically ineffective health care or health care contrary to generally accepted health care standards applicable to the health care provider or institution.

(c) A physician may conduct an evaluation of the individual and, if possible, in consultation with the individual, or the individual’s legally recognized health care decisionmaker, issue a new order consistent with the most current information available about the individual’s health status and goals of care.

(d) The legally recognized health care decisionmaker of an individual without capacity shall consult with the physician who is, at that time, the individual’s treating physician prior to making a request to modify that individual’s Physician Orders for Life Sustaining Treatment form.

(e) An individual with capacity may, at any time, request alternative treatment to that treatment that was ordered on the form.

SEC. 5. Section 4781.4 is added to the Probate Code, to read:



4781.4. If the orders in an individual's request regarding resuscitative measures directly conflict with his or her individual health care instruction, as defined in Section 4623, then, to the extent of the conflict, the most recent order or instruction is effective.

SEC. 6. Section 4781.5 is added to the Probate Code, to read:

4781.5. The legally recognized health care decisionmaker shall make health care decisions pursuant to this part in accordance with Sections 4684 and 4714.

SEC. 7. Section 4782 of the Probate Code is amended to read:

4782. A health care provider who honors a request regarding resuscitative measures is not subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, as a result of his or her reliance on the request, if the health care provider (a) believes in good faith that the action or decision is consistent with this part, and (b) has no knowledge that the action or decision would be inconsistent with a health care decision that the individual signing the request would have made on his or her own behalf under like circumstances.

SEC. 8. Section 4783 of the Probate Code is amended to read:

4783. (a) Forms for requests regarding resuscitative measures printed after January 1, 1995, shall contain the following:

"By signing this form, the legally recognized health care decisionmaker acknowledges that this request regarding resuscitative measures is consistent with the known desires of, and with the best interest of, the individual who is the subject of the form."

(b) A printed form substantially similar to that described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 4780 is valid and enforceable if all of the following conditions are met:

(1) The form is signed by the individual, or the individual's legally recognized health care decisionmaker, and a physician.

(2) The form directs health care providers regarding resuscitative measures.

(3) The form contains all other information required by this section.

SEC. 9. Section 4784 of the Probate Code is amended to read:

4784. In the absence of knowledge to the contrary, a health care provider may presume that a request regarding resuscitative measures is valid and unrevoked.

SEC. 10. Section 4785 of the Probate Code is amended to read:

4785. This part applies regardless of whether the individual executing a request regarding resuscitative measures is within or outside a hospital or other health care institution.