



Practitioner Orders for
Life-Sustaining Treatment

IL Public Act 102-0140: Health Care Surrogate Act Changes FAQ for Health Care Professionals May 2022

What is POLST?

In Illinois, POLST stands for Practitioner* Orders for Life Sustaining Treatment. Other states use POST, MOLST, MOST or something similar. It is NOT just a form, it is a process, an approach to end-of-life planning based on thoughtful conversations with the patient, family and healthcare professional/s that incorporates values, beliefs, and priorities as these relate to prognosis, likely disease course and treatment choices.

* Physician, Advanced Practice Registered Nurse, Physician Assistant, Licensed Resident in 2nd year or higher of accredited residency program

Who is appropriate for POLST?

The POLST decision-making process and resulting medical orders are intended for people of any age who are at risk for a life-threatening clinical event because they have a serious life-limiting medical condition, which may include advanced frailty.

CHANGE #1 removes the requirement for a witness signature on the POLST form.

Why was this change needed?

The POLST form is like other medical orders (signed by the practitioner and patient/legal representative) which normally don't need a witness signature. The witness signature requirement is inconsistent with best practices established by the National POLST organization and made it impossible for Illinois to honor POLST forms from other states which, except for CT, do not have a witness signature. Most importantly, the witness signature requirement has been a barrier for some who wish to complete a POLST form because identifying someone to sign as a witness is challenging in some healthcare settings where the POLST is commonly used.

Note that this information provides clinical guidance for the POLST Model and should NOT be construed as medical or legal advice. For answers to legal questions, check with your organization's legal counsel. FOR MORE INFORMATION: See the IL HCSA @ [755 ILCS 40/ Health Care Surrogate Act. \(ilga.gov\)](#) or go to [polstil.org](#).

What should providers do in a medical emergency if a patient has a POLST form that does NOT have a witness signature?

EMS, first responders and other healthcare providers should recognize POLST forms both with and without a witness signature as VALID and provide treatment that aligns with the patient's wishes as documented on the form.

Should providers leave the witness signature field blank when completing a POLST form?

The Illinois Department of Public health will be publishing a new form without a witness signature field soon, but until then, CAUTION! Patient safety is the first concern, so continue to include the signature of a witness when feasible, so that the patient's wishes are more likely to be honored.

Change #2 revises requirements when a default health care surrogate wishes to decline life-sustaining treatment (LST) on behalf of a patient.

Why was this change needed?

There are healthcare settings where POLST forms are commonly completed, but two physicians are not generally available. These include places like a patient's home, nursing facilities and even some rural hospitals. Therefore, when a default healthcare surrogate wishes to limit life-sustaining treatment, they may need to be able to rely on a practitioner other than a physician to comply with Illinois law.

What do providers need to do to comply with this new change in law?

When a default health care surrogate wishes to withhold or withdraw life-sustaining treatment, 1 physician and 1 other qualified healthcare practitioner must both have examined the patient and documented that they lack decisional capacity and that they have a qualifying condition. Other provisions of the IL Health Care Surrogate Act also continue to apply.

Which health care professionals are authorized to determine that a patient lacks decisional capacity and has a qualifying condition?

"Physician" means a physician licensed to practice medicine in all its branches in Illinois or in the state where the patient is being treated.*

"Qualified health care practitioner" means an individual who has personally examined the patient and who is licensed in Illinois or in the state where the patient is being treated and who is a physician, advanced practice registered nurse, physician assistant, or resident with at least one year of graduate or specialty training who holds a temporary license to practice medicine and is enrolled in a residency program accredited by the Liaison Committee on Graduate.*

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Medical Education or the Bureau of Professional Education of the American Osteopathic Association.

*Underlined text from PA [102-0744](#), effective May 6, 2022. Other text from PA [102-0140](#), effective January 1, 2022.

Do providers need to follow the process laid out in the IL Health Care Surrogate Act when completing a POLST form?

Usually, yes. A POLST withholds LST when the form has the following boxes checked: *Do Not Attempt Resuscitation (NO CPR)* in Section A or *Selective Treatment or Comfort Focused Treatment* in Section B or *No Medically Administered Nutrition* in Section C. In these cases, the patient must have a qualifying condition & lack decisional capacity established and documented by the attending physician + another qualified healthcare practitioner before a surrogate appointed under the IL Health Care Surrogate Act can consent to POLST. Other provisions of the HCSA apply.

Change #3 directs EMS/first responders to act on out-of-state & National POLST forms.

Why was this change needed?

We live in an increasingly mobile society, and even patients with a serious, life-limiting illness may travel in their last months of life. Portability and reciprocity of POLST medical order forms helps assure the honoring of a patient's wishes for emergency medical care when they are visiting Illinois.

What should providers do in a medical emergency if a patient has a National POLST form or a similar form from another state?

EMS, first responders and healthcare providers should honor a completed and immediately available POLST form that is formally authorized by a state or territory within the United States, as well as the National POLST form. Remember, in some states, forms are called POST, MOLST, MOST or something else.

Are providers legally protected if they honor a portable medical order from another state?

Yes, a health care professional/provider, or an employee of a health care professional/provider, who in good faith complies with a cardiopulmonary resuscitation (CPR) or life-sustaining treatment order authorized by the HCSA -including a Department of Public Health Uniform POLST form, National POLST form, another state's POLST portable medical orders form, or an out-of-hospital Do Not Resuscitate (DNR) order formally authorized by a state or territory

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within the United States- are not subject to any criminal or civil liability, except for willful and wanton misconduct.

Can providers complete a National POLST form instead of the Illinois Department of Public Health Uniform POLST form?

Illinois has NOT adopted the National form, so completing a National POLST form for Illinois residents is not recommended.

Change # 4 sets guidelines for surrogates authorized under the Health Care Surrogate Act who wish to void/change a POLST that was executed by the patient while they still had decisional capacity.

Why was this change needed?

The IL Health Care Surrogate Act has safeguards to make sure default surrogate decision makers -not chosen by the patient- are acting to reasonably carry out the patient's expressed wishes. Sometimes, a surrogate requests that the medical team void or change a lawfully executed POLST form that the patient consented to when competent to make their own decisions. This puts the patient at risk for receiving care they did not want and can cause distress for providers.

How can a default surrogate decision maker void a POLST form and/or make changes to a POLST form on behalf of a patient?

When a default surrogate wishes to change an existing POLST form, consented to by the patient themselves. The surrogate is required to take the following steps as a safeguard:

1. Consult with the patient's attending practitioner.
2. Review advanced directives/known wishes.
3. Use the "substituted judgment standard" first, and the best interest of patient second in making decisions.
4. Document new information and the reason for voiding/changing the POLST form in the patient's health record.

Does the same process apply to a power of attorney for health care (PoAHC)?

No, an individual themselves or their PoAHC can revoke a DNR or POLST order at any time. However, a robust discussion with a health care professional about the patient's illness, values and goals for care is always recommended before voiding or changing a POLST form.

Does the same process apply if the default surrogate decision maker consented to the existing POLST form on behalf of the patient?

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No, a default surrogate decision maker can void or change a POLST that they signed themselves at will. However, a robust discussion with a health care professional about the patient's illness, values and goals for care is always recommended before voiding or changing a POLST form.

Change #5 reinforces that completing a POLST form is always voluntary.

Why was this change needed?

Nursing homes and other healthcare facilities sometimes insist that individuals or their legal representative complete a POLST form as part of the admissions process. This is inappropriate because not all residents of nursing facilities are appropriate candidates for a POLST form, and completing a POLST form is always optional. If a patient wants to receive all available life-sustaining treatment, they may choose not to have a POLST form.

How should health care organizations and providers implement this change?

Providers should never make completing a POLST form a requirement for admission to any facility or a precondition to the provision of services.

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