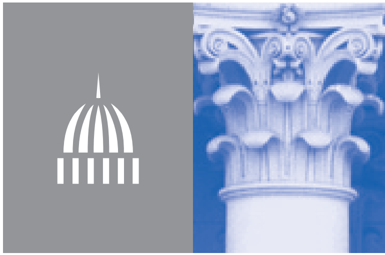

National Conference of State Legislatures

LEGISBRIEF

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Physician Orders for Life-Sustaining Treatment

By Samantha Scotti

Many Americans do not receive the care they want at the end of their lives. Advance care planning helps people make decisions regarding future health care treatments should they lose the ability to express their wishes. Living wills, health care powers of attorney and Physician Orders for Life-Sustaining Treatment (POLST) forms are advance care planning tools that can be used to express end-of-life care preferences.

POLST forms, which originated in 1991 from a group of medical ethicists and other stakeholders, aim to align end-of-life care with patients' preferences. Designed to complement advance directives, they are intended solely for people who are seriously ill or frail. These forms document decisions that are made with a person's current diagnosis in mind—allowing a patient to record whether he or she wants certain interventions, such as artificial feeding, antibiotics, cardiopulmonary resuscitation (CPR) and mechanical ventilation. Physician Orders for Life-Sustaining Treatment forms are the product of a conversation between a patient and his or her medical provider. Once signed by a designated provider, they are considered medical orders that cannot be disregarded by emergency medical technicians. Patients should carry POLST forms across care settings, such as from a hospital to a skilled nursing facility.

Supporters of POLST forms promote them as a way to ensure that treatment preferences are honored. A 2011 study concluded that, in 94 percent of cases, POLST orders were consistent with treatments patients received. Some advocacy groups have expressed concern that, if abused, the forms can misrepresent patients' true preferences (such as inaccurately indicating that they wish to forego life-sustaining treatment). In addition, some people object to health care decisions that withhold life-sustaining treatments based on their own religious or moral beliefs. However, the decision to complete a POLST form is voluntary and research has shown that they do help people receive desired treatment. A 2012 study found that 65 percent of POLST forms contained at least one order for treatment beyond comfort measures alone (which are measures that primarily intend to keep a person comfortable rather than prolong or sustain their life).

Did You Know?

- Polls show that a vast majority of Americans agree on the benefits of discussing end-of-life options; however, few people actually do.
- One study with late-stage cancer patients reported that about one in four had end-of-life care discussions with his or her oncologist.
- POLST forms are meant to complement other end-of-life planning forms and are intended for people who are seriously ill or frail.

State Action

Currently, 46 states have or are developing POLST programs. Some states have enacted legislation to establish guidelines for POLST programs or remove barriers to implementation. All states require a designated medical provider to sign POLST forms and in some states, only physicians may legally do so. California passed legislation in 2015 to authorize nurse practitioners and physician's assistants—acting under the supervision of a physician—to sign POLST forms.

Multiple state statutes also provide immunity for medical providers who comply with

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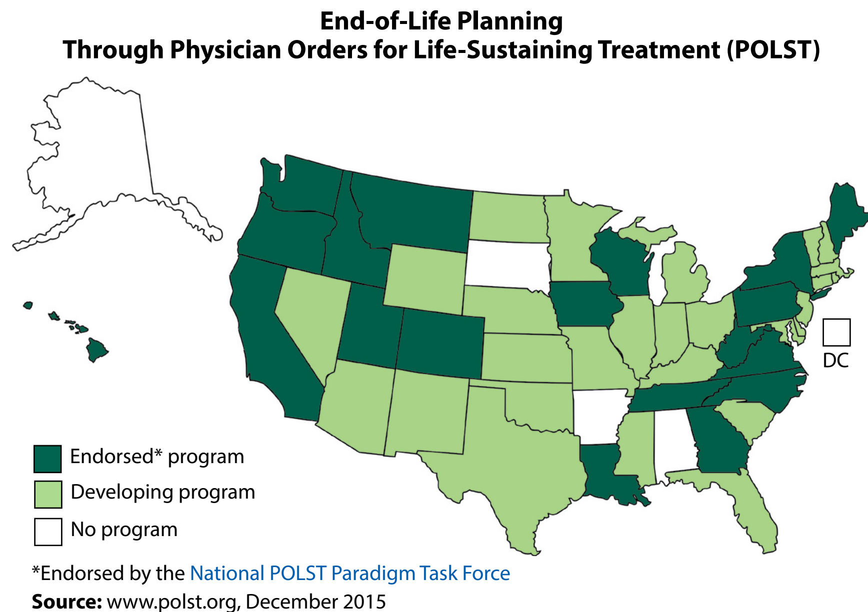
POLST orders, such as withholding life-sustaining treatment. Wyoming, for example, enacted House Bill 162 in 2015 to create a statewide, standardized POLST program that provides civil and criminal immunity for providers.

The names of POLST programs and the process for filling out POLST forms vary from state to state. In Colorado, for example, it is called MOST (Medical Orders for Scope of Treatment); in Louisiana, LaPOST (Louisiana Physician Orders for Scope of Treatment); and in Vermont, it is known as COLST (Clinician Orders for Life-Sustaining Treatment).



While many states have enacted statutes related to POLST, not all have taken this route to implement their programs. For example, Minnesota's Medical Association led an effort to gain stakeholder consensus on a standard form after realizing that several different forms were being used, which led to confusion among emergency medical services (EMS) and other providers. The process brought together representatives from medicine, nursing, hospice, health law and emergency medicine. Oregon formed a coalition of health care providers to begin its POLST program in 1990, and followed this process with legislation in 2009 to create a statewide electronic registry of POLST forms. First responders and medical providers statewide can access this electronic registry to obtain the treatment preferences of anyone who completed a POLST form. Idaho's statute authorizes the secretary of state to create and maintain a health care directive registry that includes the state's POLST form.

Federal Action

The Centers for Medicare and Medicaid Services (CMS) recently approved, as part of a larger rule regarding Medicare reimbursement policy, a billing code for physicians or other qualified health care professionals to seek reimbursement for advance care planning consultations. When these discussions are conducted as part of a "Welcome to Medicare" informational session, or as part a person's annual physical, there is no cost-sharing. This new rule enables providers to be reimbursed for the time it takes to discuss potential treatment options and wishes for end-of-life care with patients and families, and to fill out advance care plans, including POLST forms, in the case of someone who is nearing the end of life.

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Additional Resources

Physician Orders for Life Sustaining Treatment

Improving Advanced Illness Care: The Evolution of State POLST Programs

POLST Legislative Guide

The information contained in this LegisBrief does not necessarily reflect NCSL policy.