POLST

Minnesota Elder Law Institute
October 20, 2015

Thaddeus Mason Pope, JD, PhD Hamline University School of Law

Roadmap

Unwanted treatment
Problems w/ ADs
What is POLST
Benefits of POLST

Unwanted treatment

Unwanted by patients who get it

75% would trade
length of life
for
quality of life

"More important to enhance the quality of life . . . even if it means a shorter life."

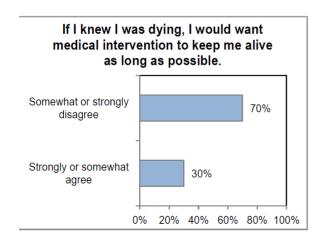
National Journal (Mar. 2011)

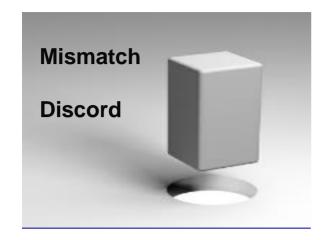
PewResearchCenter

NUMBERS, FACTS AND TRENDS SHAPING THE WORLD

NU

Possible to Keep Patients Alive



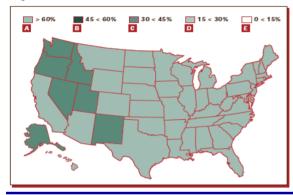




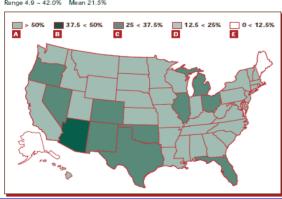
End-of-Life Care in Minnesota

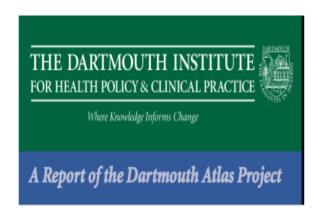


Deaths at home, 1997 Range 14.7% - 35.8% Mean 24.9%

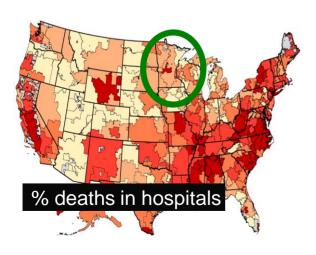


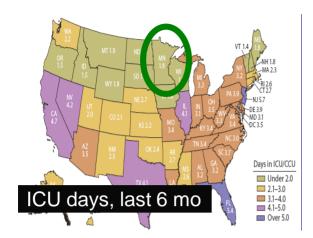
People over 65 who used hospice in the last year of life, 2000 Range 4.9-42.0% $\,$ Mean 21.5%



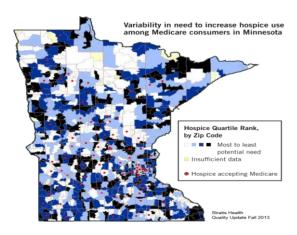












Who gets unwanted treatment

Patients
with
capacity

Tool to fix: informed consent

Patients
without
capacity

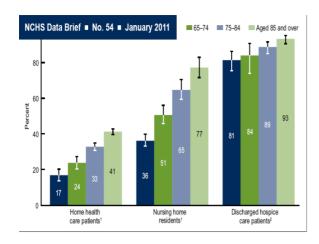
Tool to fix: advance directive

Limits of Advance Directives

Not completed
Not found
Not informed
Not clear

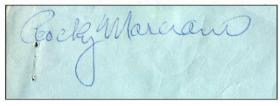
Not completed





Not found

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DUPONT STREET & SYMINGTON AVENUE BRANCH 1902-1904 DUPONT STREET TORONTO, ONT.	Maro. 29 1966
PAY TO THE Rocky Marciano Shirteen Doungre	- \$ /300 PX
Augh & Frencho APOI	LLO PROMOTIONS LIMITED
Faid in Full-	Many Haylund



65-76% of physicians whose patients have advance directives do not know they exist



U.S. Department of Health and Human Services Assistant Secretary for Planning and Evaluation Office of Disability, Aging and Long-Term Care Polic



Individuals fail to make & distribute copies

- Primary agent
- · Alternate agents
- Family members
- PCP
- Specialists

- Attorney
- Clergy
- Online registry

Not informed

Enough

THE FAILURE OF THE LIVING WILL

by Angela Fagerlin and Carl E. Schneider

In pursuit of the dream that patients' exercise of autonomy could extend beyond their span of competence, living wills have passed from controversy to conventional wisdom, to widely promoted policy. But the policy has not produced results, and should be abandoned.

HASTINGS CENTER REPORT

March-April 200-

Annals of Internal Medicine

Perspective

Controlling Death: The False Promise of Advance Directives

Henry S. Perkins, M

Advance directives promise patients a say in their future care but actually have had little effect. Many experts blame problems with completion and implementation, but the advance discribe simply presuppose more control over future care than is mealest. Medical others cannot be predicted in detail, making most prior instructions difficult to adapt, inselvent, or even misleading. Furthermore, many process either do not knew patients without or do not pursual those without entirely. They unexpected problems arise offern to defeat advance directives offer only limited benefit, advance care pluming, advance directives offer only limited benefit, advance care pluming.

should emphasize not the completion of directives but the emotional perpendition of patients and families for future criters. The existentialst Albert Camus might suggest that physicians should warm patients and families that momentus, unforeseable decisions he aftered. Then, when the critis this, physicians should provide guidance; should hip make decisions despite the inevitable uncerturities; hould drate exponeitably for those decisions and, above all, should courageously see patients and families through the featsome experience of dying.

Are Intern Med. 2007;147:51-57.
For author affiliation, see and of text.

in imm

Not clear

if, then	
Trigger terms vague	
"Reasonable expectation of recovery" 75% 51%	
25% 10% Plus: prognosis uncertain	
r raist progressio arrestrain	

Preferences vague

"No ventilator"
Ever
Even if temporary

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SITU	A	L L	lU	YI.	Α

If I am in a coma or a persistent vegetative state and, in the opinion of my physician and two consultants, have no known hope of regaining awareness and higher mental functions no matter what is done, then my goals and specific wishes — if medically reasonable — for this and any additional illness would be:

Please check appropriate boxes:
 Cardiopulmonary resuscitation (chest compressions, drugs, electric shocks, and artificial breathing aimed at reviving a person who is on the point of dying).
Major surgery (for example, removing the gall- bladder or part of the colon).
Mechanical breathing (respiration by machine, through a tube in the throat).
 Dialysis (cleaning the blood by machine or by fluid passed through the belly).
5. Blood transfusions or blood products.
 Artificial nutrition and hydration (given through a tube in a vein or in the stomach).
 Simple diagnostic tests (for example, blood tests or x-rays).
Antibiotics (drugs used to fight infection).
9. Pain medications, even if they dull conscious-

I	want	I want treatment tried. If no clear improvement, stop.	I am undecided	I do not want
		Not applicable		
		Not applicable		
		Not applicable		
		Not applicable		
		Not applicable		
		Not		

	Yes. I would want to have life- sustaining treatments.	It would depend on the circumstances.	No. I would not want to have life-sustaining treatments.
If I am unconscious, in a coma, or in a persistent vegetative state and there is little or no chance of recovery	Initials	Initials	Initials
If I have permanent severe brain damage (for example, severe dementia) that makes me unable to recognize my family or friends	Initials	Initials	Initials
If I have a permanent condition that makes me completely dependent on others for my daily needs (for example, eating, bathing, toileting)	Initials	Initials	Initials
If I am confined to bed and need a breathing machine for the rest of my life	Initials	Initials	Initials
If I have pain or other severe symptoms that cannot be relieved	Initials	Initials	Initials
If I have a condition that will cause me to die very soon, even with life- sustaining treatments	Initials	Initials	Initials



More technology is the default

Patient must opt out

ADs often fail to rebut LST presumption



POLST

POLST

Physician

Order

Life

Sustaining

Treatment

POLST

Provider

Order

Life

Sustaining

Treatment

Physician Order for **POST**

Scope of Treatment

MOST Medical . . .

MOLST Medical . . .

Clinician . . . **COLST**

Volume 23, Number 4 The Journal of Clinical Ethics 353

Thaddeus Mason Pope and Melinda Hexum, "Legal Briefing POLST: Physician Orders for Life-Sustr Journal of Clinical Ethics 23, no. 4 (Winter 2012): 353-76.

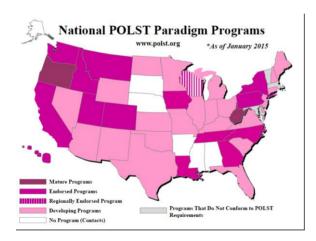
Law

Legal Briefing: POLST: Physician Orders for Life-Sustaining Treatment

Thaddeus Mason Pope and Melinda Hexum

Many acronyms

Same concept

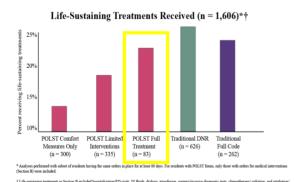


What is POLST

POLST: Provider Orders for Life Sustaining Treatment IIII/AA PERIMITS DISCLOSURE OF FOLST TO OTHER HEALTH CARE PROVIDERS AS NECESSARY POLICE SUSTAINING PROLES FOR LIFE-SUSTAINING PROLESS. LIFE-SUSTAINING PROLESS.	
FIRST fisher dues confirs, THESE contract the printed paradise. The TERMINE minuted with the TER	
When most in cardiopathomory series, follow-orders in B and C.] Administration represents appropriate (AMA) planed but a queed to a Control of the Control o	
Const and find applyon If providing, the cell transport to BT content patient can be made constrained as envisement By providing, the cell transport to BT content patient can be made constrained as envisement By providing, the cell transport to BT content patient can be made compared to the transport can be made compared to the cell transport can be considered	
PRODUCE LES SUSTAINES MANAGEMENT	
Control Contro	
MATERIAN CONTROL DESCRIPTION OF THE FORM AND VALUE VIOLET WAS CHIEF VIOLET IN LARGE LETTERS. POLICE THIS FORM, DRAW A LINE ACTION SECTIONS A: 15 AND WRITE "VIOLE" IN LARGE LETTERS.	
A CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing:	
Check Cine OPALATTEMPT RESUSCITATION DIRROD NOT ATTEMPT RESUSCITATION (Allow Automatic external deficultor (AED) should not be used for a	
When not in cardiopulmonary arrest, follow orders in B and C. An automatic external deficulture (AED) should not be used for a patient who has chosen "Do Not Attempt Resociation."	
GOALS OF TREATMENT: Patient has pulse and/or is breathing. See Section A regarding CPR if pulse is lost. Additional Orders (e.g. dialysis, etc.)	
Cons COMFORT CARE — Do not incubate but use medication, caygen, oral section, and manual clearing of invest, etc. an needed for immediate constort. Chock all that apply: n an emergency, call	
LIMIT INTERVENTIONS AND THEAT REVEISBLE CONDITIONS — Provide interventions aimed at treatment of new or revenible ill- ness / injury or non-life theastening chronic conditions. Duration of invaive or unconfortable interventions should generally be limited. (Transport to ER presumed)	
Cityoic cons: Do not intuitate Trial of intuitation (e.gdays) or other instructions:	
PROVIDE LIFE SUSTAINING TREATMENT Inhibite, cardiovert, and provide medically necessary care to sustain life. (Tanaport to ER prenamed)	

	Chack All That Apply	INTERVENTIONS AND TREATMENT ANTIBODICS (check one): Oral Antibiotics (Use other methods to relieve symptoms whenever possible.) Oral Antibiotic Treatment NUTRITION/WIDDLATION (check all that apply): Offer food and liquids by mouth (Oral fluids and nutrition must always be crifered if medicully feasible) Inde feeding through mouth or nose Other feeding directly into 61 tract Offers:	Additional Orders:
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Order for LST



JAGS 58: 1241-1248, 2010. A Comparison of Methods to Communicate Treatment Preferences in Nursing Facilities: Traditional Practices versus the Physicians Orders for Life-Sustaining Treatment (POLST) Program.

For whom

Terminal illness

Advanced chronic progressive illness

Frailty

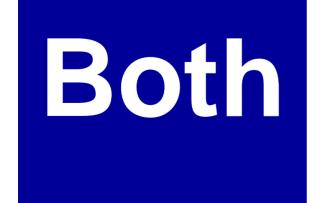
In last year of life

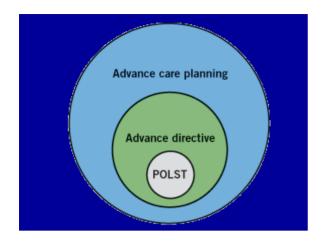
Others who want to define care

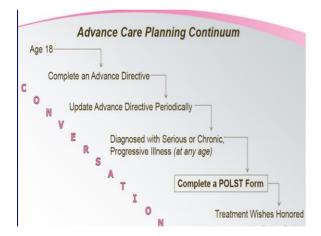


POLST supplements AD

Does not replace







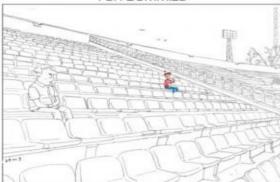
POLST benefits



1. Bright color

	MELTINGS IN MARK IN PLANTS IN THE BANK	THE RESERVE PARTICIPATION OF			
Accordance To the control of the con	Physician Cellers for the Learning Assessed Action Company of the Celler Celle	Operation 19 13			
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Section 101 A Vol 2, 1981 (1915). Appendix of the control of a position of the control of a position of the control of a position of the control of the cont	NAMES OF TAXABLE PARTY.		C	PSymbol Signature for Section A and B	

Where	's W	a	d	O	?
FOR	DUMMIE	S			



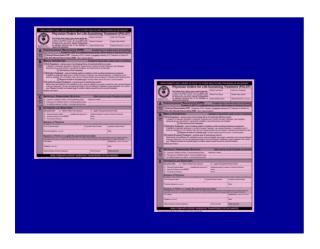
Original POLST printed on lilac card stock

But a **copy** has the same force as original

2. Single page

	PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT (POLST)	Last Name			
is a pre-	f follow these orders, THEN contact the patient's provider. This oxider order sheet based on the patient's medical condition and	First/Middle Initial			
Any s	 POLST translates an advance directive into provider orders. ection not completed implies the most aggressive treatment at section. Patients should always be treated with dignity and 	Date of Birth			
respect	f.	Primary Care Providen/Phone			
Д	CARDIOPULMONARY RESUSCITATION (CPR): Parient has no pulse and in not breathing.				
heck ine	CPR/ATTEMPT RESUSCITATION DNR/D	O NOT ATTEMPT RESUSCITATION (Allow Natural Death) An automatic external defibrillator (AED) should not be used for a C. patient who has chosen "De Not Attempt Resuscitation,"			
В	GOALS OF TREATMENT:				
huck	Patient has pulse und/or is breathing. See Section A regarding				
ine ioal	COMFORT CARE — Do not intuitate but use medication, oxygen, oral suction, and manual clearing of sirrange, etc. as needed for immediate comfort.				
	Check all that apply: ☐ In an emergency, call				
	If possible, do not transport to ER (when patient can be	made comfortable at residences			
	 If possible, do not admit to the hospital from the ER (e.g. fortable at residence)), when patient can be made com-			
	ness / injury or non-life threatening chronic conditions be limited. (Transport to ER presumed) Check one: Do not intubate	5 — Provide interventions almost at treatment of new or revealths 18- Duration of invasive or uncomfortable interventions should generally			
	PROVIDE UPE SUSTAINING TREATMENT Insubate, careflowers, and provide medically necessary on	re to nutain life. (Transport to ER prenumed)			
\overline{c}	INTERVENTIONS AND TREATMENT				
heck III Ther	☐ Ne Antibiotics (Use other methods to relieve symptom	ns whenever possible.)			
pply	□ Oral Antibiotics Only (No IV/IM) □ Use IV/IM Antibiotic Treatment				
	NUTRITION/HYDRATION (check of that see/y)	Additional Orden:			
	Offer food and liquids by mouth (Oral fluids and nutri	tion must always be			
	offered if medically feasible) Tube feeding through mouth or nose				
	☐ Tube feeding directly into G1 tract ☐ IV flind adversaration				

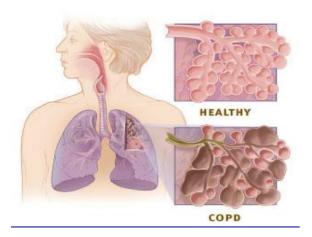
3. Same form

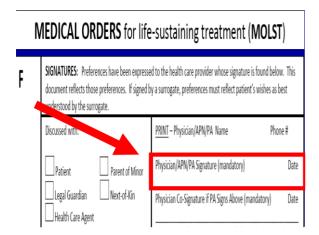


4. More informed

The present

Here & now





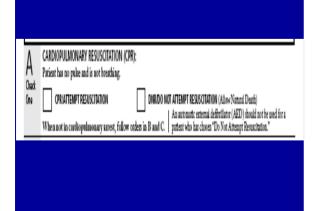
5. Immediately actionable



No need to "interpret" advance directive

No need to "translate" into orders

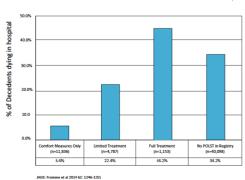
6. Easy to follow



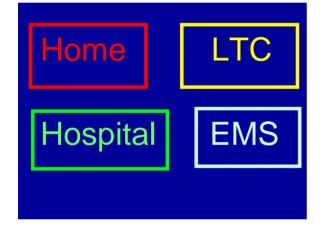
7. Better honored

Can follow Will follow

Patient's preferences recorded as medical orders on a POLST Form and how those orders match with death in the hospital



8. Portable







"Until properly completed orders are presented, pre-hospital personnel will . . . proceed with standing orders for resuscitation"

9. Updatable

POLST does not expire

MOLST	can be
revised	or
revoke	d at any
time	

Review with change in condition or location

Can be completed by surrogate, if patient lacks capacity

70% patient	
30% surrogate	
10. Proven Effective	
POLST is Evidence Based	
Major academic research in 3 POLST states: strong evidence base of efficacy of POLST in ensuring preferences are elicited, documented, honored, w/ pain and symptom management equivalent to those without POLST order	
Hickman et al. "A Comparison of Methods to Communicate Treatment Preferences: Traditional Practices versus the Physician Orders for Life- Sustaining Treatment Program" J Am Geriatr Soc 58:1241–1248, 2010.	

Closes gap
between what
people want and
what they get

POLST concerns

MINNESOTA STATUTES 2014 145C.01 CHAPTER 145C HEALTH CARE DIRECTIVES 145C.01 DEFINITIONS 145C.09 REVOCATION OF HEALTH CARE DIRECTIVE. 145C.02 HEALTH CARE DIRECTIVE. 145C.11 IMMUNITIES. 145C.12 PROHIBITED PRACTICES. 145C.04 EXECUTED IN ANOTHER STATE. SUGGESTED FORM; PROVISIONS THAT MAY
BE INCLUDED. 145C.14 145C.14 CERTAIN PRACTICES NOT CONDONED. WHEN EFFECTIVE. 145C.15 DUTY TO PROVIDE LIFE-SUSTAINING HEALTH AUTHORITY AND DUTIES OF HEALTH CARE SUGGESTED FORM. AUTHORITY TO REVIEW MEDICAL RECORDS.



Adopted by Minnesota Medical Association, Emergency Medical Services Board, growing number of health systems, physicians . . .



vw.health.state.mn.us/ 'directory/surveyapp/ ings/h5490012.pdf



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report PUBLIC

Ils Living Center

h Street North

lm, MN 56073

County

'Visit: September 9, 2013 f Visit: 4:00 a.m. - 11:00 a.m. Report #: H5490012

Date: November 1, 2013

By: Carrie Euerle, R.N., Special Inves

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF BROWN

FIFTH JUDICIAL DISTRICT CASE TYPE: WRONGFUL DEATH

Eric J. Whitman, trustee for the next-of-kin of Karen A. Whitman,

Court File No.

Plaintiff,

V.

COMPLAINT

Highland Manor, Inc., d/b/a Oak Hills Living Center, a Minnesota corporation,

Defendant.



Issue 15

July 2015

End-of-life care: A patient safety issue

Corin Status				DNR = 2		Table 4. Demographics and Treatment Decisions*			
Ome T	DNR 60	uit Code tri	P Value	Comfort Care 01	Full Care (rd	PYMA	Group (n)	Hi Correct Response (n)	PValu
10000	DNH 90	nu Code Isi		Comot Care (r)	ut Care (r)	-	Gender Males (SRR)	55% (212)	0.93
Sender Males	77% (332)	225, 600	0.719	A331 (248)	1796 (147)	0.581	Femses (200)	54% (162)	
Females	78% (244)	22% (66)	0.447	66% (204)	3416 (106)	< 0.0001	Specialty EM (197)	8899 (1000	0.56
Speciaty	7496 (142)	26% (51)	0.647	60% (114)	80% (7E)	< 0.0001	HISA (380K)	50% (204)	
EM IMHospitalist	80% (325) 77% (67)	20% (84) 22% (20)		71% (288) 44% (29)	2996 (117) 5696 (490		IMPlosphalut (55) GS (23)	54% (45) 46% (11)	
GS	79% (42)	21% (5)		21% (17)	29% (7)		Experience	100000000000000000000000000000000000000	< 0.00
Experience PGV1	85% (158)	2526 (250	< 0.0001	60% (87)	32% (47)	0.764	PGY1 (128) PGY2 (115)	34% (43)	10000
PGY2	84% (101)	1856 (20)		65% (2%)	3546 (25)		PGY3 (129)	48% (62)	
PGYS PGYA	79% (112) 88% (37)	21% (29) 12% (5)		51% (90) 71% (90)	39% (S4): 29% (32)		PGY4 (42) Fetfow (9)	62% (26) 30% (0)	
Felow		200000000000000000000000000000000000000		5019 (5)	50% (5)		Attending (M1)	74% (192)	
Attending	68% (186)	32% (87)	0.741	6614 (176)	3514 (93)	0.840	Region Northwest (200)	5050 (140)	0.46
Northeast	79% (220)	2236 (40)	0.741	83% (17.0)	37% (100)	0.640	Matinest (138)	595 (81)	
Midwest South	75% (102) 78% (162)	25% (35) 22% (50)		56% (91) 54% (147)	34% (47) 36% (84)		South (722) Wast (75)	54% (11%) 48% (35)	2000
West	70% (102)	24% (50)		71% (55)	29% (22)		Advance directives training	100000000000000000000000000000000000000	0.44
Advance directives training	78% (284)	24% (90)	0.242	62% (228)	2816 (142)	0.099	Yes (327) No. (357)	53% (172)	
No.	80% (271)	24% (80)		68% (22%)	3276 (109)		140.00017	Emergency Medicine: IM	

Thaddeus Mason Pope

Director, Health Law Institute Hamline University School of Law 1536 Hewitt Avenue Saint Paul, Minnesota 55104

T 651-523-2519

F 901-202-7549

E Tpope01@hamline.edu

W www.thaddeuspope.com

B medicalfutility.blogspot.com