



MEMORANDUM

TO: DDSO Directors, Voluntary Provider Agency Executive Directors

FROM: Eileen Zibell

DATE: January 21, 2011

SUBJECT: Approval of Medical Orders for Life-Sustaining Treatment (MOLST) Form

Effective immediately, the Office for People with Developmental Disabilities (OPWDD) has approved the use of the newly revised MOLST form http://www.nyhealth.gov/professionals/patients/patient_rights/molst/ for the individuals served in the OPWDD system. However, the MOLST form must be accompanied by the [MOLST Legal Requirements Checklist for Individuals with Developmental Disabilities](#). This means that the MOLST form may only be completed after the Health Care Decisions Act (HCDA) process has been completed for an individual. Use of the Checklist ensures that the appropriate statutory standards have been met prior to use of the MOLST process. Please note that use of the MOLST form is optional.

The most significant change resulting from approval of the MOLST form is with respect to non-hospital Do Not Resuscitate (DNR) orders. Previously, such DNR orders were required to be on the DOH form 3474 <http://www.nyhealth.gov/forms/doh-3474.pdf>. Now a non-hospital DNR order can be written on either the DOH form 3474 or the MOLST form (DOH-5003). The advantage of the MOLST form is that it is transferable to other (non-hospital) settings. Accordingly, a DNR issued on a MOLST form is effective in hospitals, nursing homes and community settings.

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**MOLST LEGAL REQUIREMENTS CHECKLIST FOR INDIVIDUALS WITH
DEVELOPMENTAL DISABILITIES**

LAST NAME/FIRST NAME

DATE OF BIRTH

ADDRESS

Note: Actual orders should be placed on the MOLST form with this completed checklist attached. Use of this checklist is required for individuals with developmental disabilities (DD) who lack the capacity to make their own health care decisions and do not have a health care proxy. Medical decisions which involve the withholding or withdrawing of life sustaining treatment (LST) for individuals with DD who lack capacity and do not have a health care proxy must comply with the process set forth in the Health Care Decisions Act for persons with MR (HCDA) [SCPA § 1750-b (4)]. Effective June 1, 2010, this includes the issuance of DNR orders.

Step 1 – Identification of Appropriate 1750-b Surrogate from Prioritized List. Check appropriate category and add name of surrogate.

- _____ a. 17-A guardian _____
- _____ b. actively involved spouse _____
- _____ c. actively involved parent _____
- _____ d. actively involved adult child _____
- _____ e. actively involved adult sibling _____
- _____ f. actively involved family member _____
- _____ g. Willowbrook CAB (full representation)
- _____ h. Surrogate Decision Making Committee (MHL Article 80)

Step 2 – 1750-b surrogate makes decision to withhold or withdraw LST, either orally or in writing.

Note: Decision must clearly specify the LST that is requested to be withdrawn or withheld.

_____ Decision made orally

Witness – Attending Physician

Second Witness

_____ Decision made in writing (must be dated, signed by surrogate, signed by 1 witness and given to attending physician).

LAST NAME/FIRST NAME

DATE OF BIRTH

Step 3 – Confirm individual’s lack of capacity to make health care decisions. Either the attending physician or the concurring physician or licensed psychologist must: (a) be employed by a DDSO; or (b) have been employed for at least 2 years in a facility or program operated, licensed or authorized by OPWDD; or (c) have been approved by the commissioner of OPWDD as either possessing specialized training or have 3 years experience in providing services to individuals with DD.

Attending Physician

Concurring Physician or Licensed Psychologist

Step 4– Determination of Necessary Medical Criteria.

We have determined to a reasonable degree of medical certainty that **both** of the following conditions are met:

(1) the individual has one of the following medical conditions:

- _____ a. a terminal condition; (briefly describe _____); or
- _____ b. permanent unconsciousness; or
- _____ c. a medical condition other than DD which requires LST, is irreversible and which will continue indefinitely (briefly describe _____)

AND

(2) the LST would impose an extraordinary burden on the individual in light of:

- _____ a. the person’s medical condition other than DD (briefly explain _____); and
- _____ b. the expected outcome of the LST, notwithstanding the person’s DD (briefly explain _____)

If the 1750-b surrogate has requested that artificially provided nutrition or hydration be withdrawn or withheld, one of the following additional factors must also be met:

- _____ a. there is no reasonable hope of maintaining life (explain _____); or
- _____ b. the artificially provided nutrition or hydration poses an extraordinary burden (explain _____).

Attending Physician

Concurring Physician

LAST NAME/FIRST NAME

DATE OF BIRTH

Step 5 – Notifications. At least 48 hours prior to the implementation of a decision to withdraw LST, or at the earliest possible time prior to a decision to withhold LST, the attending physician must notify the following parties:

_____ the person with DD, unless therapeutic exception applies
notified on ___/___/___

_____ if the person is in or was transferred from an OPWDD residential facility

_____ Facility Director notified on ___/___/___

_____ MHLS notified on ___/___/___

_____ if the person is not in and was not transferred from an OPWDD residential facility

_____ the director of the local DDSO notified on ___/___/___

Step 6 - I certify that the 1750-b process has been complied with, the appropriate parties have been notified and no objection to the surrogate's decision remains unresolved.

Attending Physician

Date

Note: The MOLST form may ONLY be completed with the 1750-b surrogate after all 6 steps on this checklist have been completed.