

MOLST Advisory Council

Tuesday, October 1, 2024 | 9:30-10:30am

Meeting Minutes

Members present: Barbara Cass, Rebecca Henderson, Mary Horan., Barbara Jacobs, Richard Kamin, Cathy Ludlum, James McGaughey, Cynthia O'Sullivan, Nick Patino, John Spencer, Scott Sussman, Tracy Wodatch.

Members absent: Matt Barrett, Amelia Breyre, Kadesha Collins, Judge Darby, Mag Morelli, Sherry Ng, Yuliya Riat, Gary Wiemokly.

DPH: Melia Allan, Dante Costa.

Introduction

- Barbara Cass opened the meeting at 9:33am.
- As part of her opening comments, Barbara Cass welcomed Nick Patino, who will be joining the group as a PA representative.
- Members introduced themselves and stated their association, and how they came to participate in the advisory council.
- Rich Kamin motioned to approve the September minutes; Scott Sussman seconded. Cathy Ludlum added a clarifying edit to the draft minutes; this change will be reflected in the final minutes from September.

MOLST Teaching Session Questions

- Barbara Jacobs shared her experience teaching a MOLST class, and there were two questions that came up:
 - (1) If the MOLST form was completed by a patient's health care representative and that person dies - is the MOLST still valid?
 - (2) The previous advanced directive statutory language was "health care agent" - is that old form acceptable as an indication of the current language of health care representative?
- Barbara Cass expressed that these could be important questions to list in the MOLST FAQs. Dante Costa shared that this would be something they could submit to the DPH legal office for a declaratory ruling.
- The comments below do not reflect legal opinions, but rather a discussion between members of the advisory council.
 - In response to (1), Rich Kamin expressed that he believes the MOLST is still valid in the event that the healthcare representative is not alive. Scott agreed with Rich, saying that the MOLST should still be valid.
 - Cynthia and James expressed that the MOLST does not get changed, but the healthcare representative may change.

- Rich suggested phrasing their question in a more general manner, since the specifics around a MOLST are more unknown.
- In response to Barbara Jacobs' question (2), Dante clarified that the statute is clear that health care agent was replaced with health care representative, and if it was executed before, it is still valid.
- Barbara Jacobs raised a final question on conservators or next of kin assisting with filling out a MOLST.
 - Cathy shared that based on the national MOLST definition, the MOLST is supposed to be the wish of the person, not someone who knew the person. This may violate the patient's rights and wishes.
 - She proposed a parallel program that uses a similar decision point to the MOLST but does not claim to be a MOLST. Perhaps this could be used for individuals that do not have the capacity to agree to a MOLST.
 - James shared that it would be good to consult with the probate court on the topic of conservators. He gave historical context on the legal authorities for MOLST, and pointed out that it would take a massive legislative change (outside of updating the MOLST statutes) to enable other authorities to help execute a MOLST.
 - Rebecca shared that there are other tools that patients can use that are not legally binding, to give a medical team guidance on what the patient wants.
- Barbara Jacobs expressed that the MOLST teaching should better emphasize the mission of a MOLST - that a MOLST is an order to explicitly convey a patient's wishes.
- The group discussed the role of the healthcare practitioner in amending a MOLST.
 - Rich Kamin mentioned to the group that health systems have ethics committees can help advise families and act as a resource, but they cannot make healthcare decisions or issue legal advice.

Continued Discussion of DRAFT Revisions to the Policy & Procedures and Next Steps Overview

- Dante spoke about the revision process for the policies & procedures. She shared some of the edits that she made based on the group's feedback.
- If the group is amenable, Dante can submit the form and the P&P for DPH internal review.
 - The policies & procedures will get approved by the DPH Commissioner, then the Office of Policy and Management (OPM), and Office of the Governor (OTG).
- Cathy asked a clarification question on how digital forms are "ripped up" in the way a paper form that is voided gets ripped up. Dante clarified that the provider would check the box on the form that says "form voided" and remove it from the patient's record.
- In reading the policies & procedures, Nick expressed that having PAs not able to create a MOLST is a barrier to care, and this may be an area for the group to advocate for a change on.

Closing

- The meeting adjourned at 10:35am.
- The next meeting is scheduled for November 5, from 9:30-10:30am.