



MOLST

MEDICAL ORDERS FOR
LIFE-SUSTAINING TREATMENT

A POLST Paradigm Program



ECHO MOLST for Individuals
with Intellectual or Developmental
Disabilities (I/DD)

Notifications: Who, What, When and Why

Presenters

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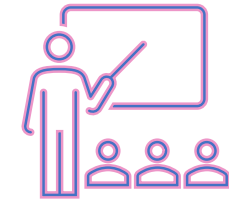
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Learning Objectives

- Define who needs to be notified based on the individual's residential setting
- Describe timing differences between withholding and withdrawing life-sustaining treatments
- Explain why notifications are required before the physician signs the MOLST



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Life Sustaining Treatment (LST)

Medical treatment which is sustaining life functions and without which, according to reasonable medical judgment, the patient will die within a relatively short time period. Includes CPR, mechanical ventilation, hemodialysis, and artificial nutrition and hydration.

SCPA 1750-b(1)

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Review - Individuals with Capacity

Any individual with capacity can make their own health care decisions.

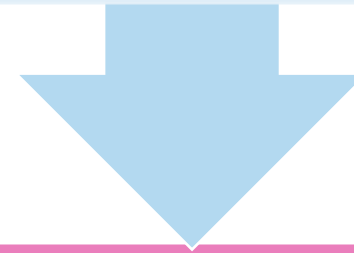
Any individual with capacity can execute a health care proxy if they can understand that they are delegating to another (an agent) the authority to make health care decision for when they lack capacity (temporarily or permanently) to make a medical decision.

In writing, two witnesses. Agent cannot witness

I/DD Individuals without Capacity

If an I/DD individual who previously had capacity executed a health care proxy:

the agent can make decisions within the parameters of the power given to them.



But what if there is no agent?

no HCP or agent not available

or individual never had the capacity to appoint an agent

Legal Framework

“Health Care Decisions Act” (for persons who are intellectually disabled)



Codified at Surrogate’s Court Procedure Act 1750-b; Effective March 16, 2003;



Reformed law to relax strict common law rules which required clear and convincing evidence of what the individual would have wanted in this situation in order to withhold or withdraw LST;

Legal Framework contd.

Legally authorized surrogates (OPWDD checklist, step 1)

may make decisions to withhold or withdraw life sustaining treatment for patients with I/DD who lack capacity (OPWDD checklist, step 2),

but compliance with requirements in steps 3 and 4 of the OPWDD checklist is required.

Notice requirements are included in step 5 of the OPWDD checklist.

Review -Legally Authorized 1750b Surrogates

1. Court appointed guardians with authority to make healthcare decisions.
2. Actively involved spouse.
3. Actively involved parent.
4. Actively involved adult child, sibling, family member.
5. Consumer Advisory Board (Willowbrook Class).
6. Surrogate Decision-Making Committees (Art 80 MHL).
 - Applies to patients without family members or other legally authorized surrogates.

Review - Responsibility of Surrogates

Advocate for efficacious treatment.

Base decisions on best interests, and when known, the person's wishes including moral and religious beliefs.

Statutory best interest considerations include - dignity and uniqueness of the person, preserve, improve or restore health; relief from suffering.

SCPA 1750-b (2) & (4)

Role of Physician - Capacity


Attending physician determines if patient has capacity to make the decisions under consideration.

Arranges for a concurring determination of capacity by a physician or licensed psychologist who meets the employment/experience requirements in step 3 of the OPWDD checklist.

Role of Physician - Medical Criteria

Attending/concurring physician determines:

1. patient has a terminal condition; OR
2. is permanently unconscious; OR
3. has a medical condition other (other than a developmental disability) that is irreversible and will continue indefinitely; (COPD, dementia, for example)
 - AND, the proposed treatment would impose an extraordinary burden to the individual



Extraordinary Burden- Considerations

The person's overall medical condition, other than the person's developmental disability;

The expected outcome of treatment; notwithstanding the person's developmental disability

SCPA 1750-b(4)(b)

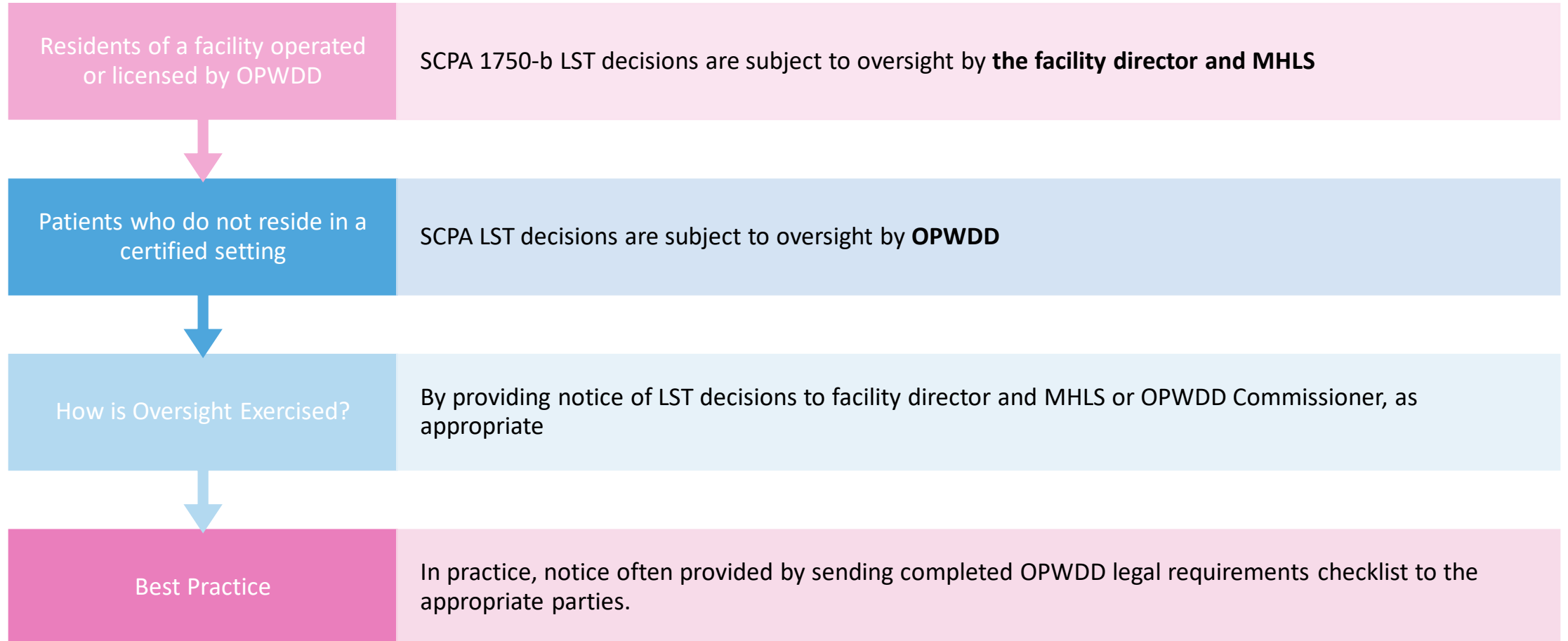
Artificial Nutrition and Hydration

Additional requirement
of finding:

- ANH itself poses an extraordinary burden to the person or;
- there is no reasonable hope of maintaining life

SCPA 1750-b(4)(b)

Oversight





Mental Hygiene Legal Service

- Agency of the Appellate Divisions of State Supreme Court
- Operates pursuant to an enabling law codified at Mental Hygiene Law sections 47.01 & 47.03
- There are four appellate divisions so there are four MHLS departments
- Website with [MHLS contacts in every county](#)

Notice requirements

**For withdrawing
LST**

At least 48 hours before withdrawing LST
(example, terminal/compassionate extubation)

**For withholding
LST**

As soon as possible if withholding LST (example,
DNR/DNI, chemotherapy, dialysis)

Patient Notice

Patient should be given notice of decision unless
therapeutic exception applies

1750b Process

1. Recommendation for withdrawing or withholding LST
2. OPWDD checklist
 1. Capacity determination
 2. Concurring opinion
 3. Consent
 4. Care to be withdrawn/withheld
3. Notice
 1. to patient
 2. MHLS*, residential provider and/or OPWDD as appropriate
 - *provide checklist, relevant medical records, proposed or draft MOLST.
4. If there are no objections - medical orders can be entered

Health Care Decision Resources

- [OPWDD health care decisions webpage](#)
- [OPWDD checklist](#)
- [DOH 5003 MOLST Form](#)
- [eMOLST](#)

OPWDD Checklist - criteria, notice



MOLST Legal Requirement Checklist For People 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 has a conversation or a series of conversations with the treating physician regarding possible treatment options and goals for care. Following these discussions, the 1750-b surrogate makes a decision to withhold or withdraw LST, either orally or in writing.

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 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 5 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 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 _____)
- ____ 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 withheld, one of the following additional factors must also be met:

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

Attending Physician _____
Concurring Physician

Revised March 2020

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.



Medical Orders for Life-Sustaining Treatment (MOLST)

THE PATIENT KEEPS THE ORIGINAL MOLST FORM DURING TRAVEL TO DIFFERENT CARE SETTINGS. THE PHYSICIAN/NURSE PRACTITIONER/PHYSICIAN ASSISTANT KEEPS A COPY.

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT _____

ADDRESS _____

CITY/STATE/ZIP _____

DATE OF BIRTH (MM/DD/YYYY) _____ Male Female _____ eMOLST NUMBER (THIS IS NOT AN eMOLST FORM) _____

Do-Not-Resuscitate (DNR) and Other Life-Sustaining Treatment (LST)

This is a medical order form that tells others the patient's wishes for life-sustaining treatment. A health care professional must complete or change the MOLST form based on the patient's current medical condition, values, wishes, and MOLST instructions. If the patient is unable to make medical decisions, the orders should reflect patient wishes, as best understood by the health care agent or surrogate. A physician/nurse practitioner/physician assistant must sign the MOLST form. All health care professionals must follow these medical orders as the patient moves from one location to another, unless a physician/nurse practitioner/physician assistant examines the patient, reviews the orders, and changes them.

MOLST is generally for patients with serious health conditions. The patient or other decision-maker should work with the physician/nurse practitioner/physician assistant and consider asking the physician/nurse practitioner/physician assistant to fill out a MOLST form if the patient:

- Wants to avoid or receive any or all life-sustaining treatment.
- Resides in a long-term care facility or requires long-term care services.
- Might die within the next year.

If the patient has an intellectual or developmental disability (I/DD) and lacks the capacity to decide, the physician (not a nurse practitioner or physician assistant) must follow special procedures and attach the completed Office for People with Developmental Disabilities (OPWDD) legal requirements checklist before signing the MOLST. See page 4.

SECTION A Resuscitation Instructions When the Patient Has No Pulse and/or Is Not Breathing

Check one:

CPR Order: Attempt Cardio-Pulmonary Resuscitation

CPR involves artificial breathing and forceful pressure on the chest to try to restart the heart. It usually involves electric shock (defibrillation) and a plastic tube down the throat into the windpipe to assist breathing (intubation). It means that all medical treatments will be done to prolong life when the heart stops or breathing stops, including being placed on a breathing machine and being transferred to the hospital.

DNR Order: Do Not Attempt Resuscitation (Allow Natural Death)

This means do not begin CPR, as defined above, to make the heart or breathing start again if either stops.

SECTION B Consent for Resuscitation Instructions (Section A)

The patient can make a decision about resuscitation if he or she has the ability to decide about resuscitation. If the patient does NOT have the ability to decide about resuscitation and has a health care proxy, the health care agent makes this decision. If there is no health care proxy, another person will decide, chosen from a list based on NYS law. Individuals with I/DD who do not have capacity and do not have a health care proxy must follow SCPA 1750-b.

SIGNATURE _____ Check if verbal consent (Leave signature line blank) _____ DATE/TIME _____

PRINT NAME OF DECISION-MAKER _____

PRINT FIRST WITNESS NAME _____ PRINT SECOND WITNESS NAME _____

Who made the decisions? Patient Health Care Agent Public Health Law Surrogate Minor's Parent/Guardian §1750-b Surrogate*

SECTION C Physician/Nurse Practitioner/Physician Assistant Signature for Sections A and B

PHYSICIAN/NURSE PRACTITIONER/PHYSICIAN ASSISTANT SIGNATURE* _____ PHYSICIAN/NURSE PRACTITIONER/PHYSICIAN ASSISTANT NAME _____ DATE/TIME _____

PHYSICIAN/NURSE PRACTITIONER/PHYSICIAN ASSISTANT LICENSE NUMBER _____ PHYSICIAN/NURSE PRACTITIONER/PHYSICIAN ASSISTANT PHONE/PAGER NUMBER _____

SECTION D Advance Directives

Check all advance directives known to have been completed:

- Health Care Proxy Living Will Organ Donation Documentation of Oral Advance Directive

*If this decision is being made by a §1750-b surrogate, a physician must sign the MOLST.

THE PATIENT KEEPS THE ORIGINAL MOLST FORM DURING TRAVEL TO DIFFERENT CARE SETTINGS. THE PHYSICIAN/NURSE PRACTITIONER/PHYSICIAN ASSISTANT KEEPS A COPY.

LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT _____ DATE OF BIRTH (MM/DD/YYYY) _____

SECTION E Orders For Other Life-Sustaining Treatment and Future Hospitalization When the Patient has a Pulse and the Patient is Breathing

Life-sustaining treatment may be ordered for a trial period to determine if there is benefit to the patient. **If a life-sustaining treatment is started, but turns out not to be helpful, the treatment can be stopped. Before stopping treatment, additional procedures may be needed as indicated on page 4.**

Treatment Guidelines No matter what else is chosen, the patient will be treated with dignity and respect, and health care providers will offer comfort measures. *Check one:*

- Comfort measures only** Comfort measures are medical care and treatment provided with the primary goal of relieving pain and other symptoms and reducing suffering. Reasonable measures will be made to offer food and fluids by mouth. Medication, turning in bed, wound care and other measures will be used to relieve pain and suffering. Oxygen, suctioning and manual treatment of airway obstruction will be used as needed for comfort.
- Limited medical interventions** The patient will receive medication by mouth or through a vein, heart monitoring and all other necessary treatment, based on MOLST orders.
- No limitations on medical interventions** The patient will receive all needed treatments.

Instructions for Intubation and Mechanical Ventilation *Check one:*

- Do not Intubate (DNI)** Do not place a tube down the patient's throat or connect to a breathing machine that pumps air into and out of lungs. Treatments are available for symptoms of shortness of breath, such as oxygen and morphine. (This box should not be checked if full CPR is checked in Section A.)
- A trial period** *Check one or both:*
- Intubation and mechanical ventilation
 - Noninvasive ventilation (e.g. BiPAP), if the health care professional agrees that it is appropriate
- Intubation and long-term mechanical ventilation, if needed** Place a tube down the patient's throat and connect to a breathing machine as long as it is medically needed.

Future Hospitalization/Transfer *Check one:*

- Do not send to the hospital unless pain or severe symptoms cannot be otherwise controlled.**
- Send to the hospital, if necessary, based on MOLST orders.**

Artificially Administered Fluids and Nutrition When a patient can no longer eat or drink, liquid food or fluids can be given by a tube inserted in the stomach or fluids can be given by a small plastic tube (catheter) inserted directly into the vein. If a patient chooses not to have either a feeding tube or IV fluids, food and fluids are offered as tolerated using careful hand feeding. **Additional procedures may be needed as indicated on page 4.**

Check one each for feeding tube and IV fluids:

- No feeding tube** **No IV fluids**
- A trial period of feeding tube** **A trial period of IV fluids**
- Long-term feeding tube, if needed**

Antibiotics *Check one:*

- Do not use antibiotics.** Use other comfort measures to relieve symptoms.
- Determine use or limitation of antibiotics when infection occurs.**
- Use antibiotics** to treat infections, if medically indicated.

Other Instructions about starting or stopping treatments discussed with the physician/nurse practitioner/physician assistant or about other treatments not listed above (dialysis, transfusions, etc.).

Consent for Life-Sustaining Treatment Orders (Section E) (Same as Section B, which is the consent for Section A)

SIGNATURE _____ Check if verbal consent (Leave signature line blank) _____ DATE/TIME _____

PRINT NAME OF DECISION-MAKER _____

PRINT FIRST WITNESS NAME _____ PRINT SECOND WITNESS NAME _____

Who made the decisions? Patient Health Care Agent Based on clear and convincing evidence of patient's wishes Public Health Law Surrogate Minor's Parent/Guardian §1750-b Surrogate*

Physician/Nurse Practitioner/Physician Assistant Signature for Section E

PHYSICIAN/NURSE PRACTITIONER/PHYSICIAN ASSISTANT SIGNATURE* _____ PRINT PHYSICIAN/NURSE PRACTITIONER/PHYSICIAN ASSISTANT NAME _____ DATE/TIME _____

*If this decision is being made by a §1750-b surrogate, a physician must sign the MOLST.

Objections

- Upon an objection the health care decision is suspended, pending mediation or judicial review.
- Objections may be lodged by patient, parent, adult sibling, other health care providers, facility director, MHLS, OPWDD Commissioner.
- Legally authorized surrogate should be notified of objection.
- In practice, objections are rare.

SCPA 1750-b(5)(b)

Why is notice required?

SCPA 1750-b serves to promote the rendition of efficacious treatment and dignity at the end of life.

Legislative judgment to provide oversight when rigid common law rule was relaxed for people with IDD who never had capacity to make their own decisions.

Physician notification promotes oversight objective to protect vulnerable population while enabling decisions to be made by a legally authorized surrogate to withhold or withdraw LST.