

# Nevada POLST Post

## June 2017



### Legislative Success - AB 199 Becomes Law

The 2017 legislative session has been a huge success for Nevada POLST. The changes Nevada POLST sought passed through both the Assembly and Senate with just a single “nea” vote and Governor Sandoval signed AB 199 on Wednesday, May 24. Although signed, this new legislation will not take effect until July 1, 2017.

The July 1 effective date gives us all one month to prepare for the changes...and they are many! Please note the following changes:

1) First and foremost, APRNs and PAs may now sign a POLST form. However, because new forms need to be designed and approved by the State, which may take about six months, if you decide to use the current form **PAs and APRNs MUST CROSS OUT ALL INSTANCES OF THE WORDS “PHYSICIAN” IN SECTION C AND REPLACE IT WITH THEIR TITLE (APRN or PA) then complete ALL the other fields in Section C.**

2) Due to the inclusion of APRNs and PAs, the Physician Order for Life-Sustaining Treatment will change its name to Provider Order for Life-Sustaining Treatment.

3) All instances referencing a patient’s “competency” have been changed to “capacity.” Patients need no longer be deemed incompetent for the POLST to be activated or the patient’s legal decision-maker (see # 4 for changes to decision-makers) to be able to take responsibility regarding the patient’s

care and POLST decisions. If, however, the patient later regains capacity, they must be advised that their legal decision-maker completed a POLST for them and either approve or revoke the POLST. This must be entered in the patient’s chart and the decision-maker notified of the patient’s decision.

4) If a patient does not have a POLST nor a DPOA, the order of authority for decision-making by others remains the same with a significant addition: Spouse, adult children, parents, siblings, another adult relative by blood or adoption or, and this is new, an adult who has exhibited special care or concern for the patient, is familiar with their values and willing to make health care decisions in the interest of the patient. (Section 9.7.)

A DPOA, parent of a minor and all others except the “adult who has exhibited special care, etc.” are statutorily termed “representatives”. The “adult who has exhibited special care, etc.” is referred to as a “surrogate”. If you are reading the legislation, pay attention to these terms because their authorities differ. For example, only a representative may revoke the POLST of a patient lacking decisional capacity, but a surrogate may only revoke the POLST of a patient for whom they themselves created the POLST. (Section 10.a & 10.b.)

5) With regard to an out-of-hospital

DNR, POLST and Advance Directive, the most recent document should be honored. Previously, a DNR was to be honored regardless of the date of execution relative to a POLST or AD.

These changes will provide access to the POLST for many who previously could not complete a POLST because they were not able to see a physician. In addition, many patients without a representative were unable to have a POLST completed for them. Now the POLST may be executed for all of these patients.

In order to bring everyone up to speed on this new legislation and its ramifications for health care providers and patients, Nevada POLST will be developing training opportunities. Please be sure you are on the Nevada POLST email list to assure notification of these trainings.

Now that legislation has been updated, Nevada POLST will be working with the State to develop a new Nevada POLST form. It is sure to be much different. It will need to reflect these new statutory changes, and also better align with national POLST standards.

In-input from health care providers, patients and families is always welcomed and seriously considered as we continue to develop the Nevada POLST program. Please [share](#) with us your suggestions for the new POLST form, training ideas and let us know what questions you may have regarding the new legislation.

### Changes to POLST Board of Directors

The last issue of the POLST Post announced that the State of Nevada’s Division of Public and Behavioral Health had taken over processing of Nevada POLST orders. In May we made another change. Sally Hardwick relinquished her position as President of Nevada POLST.

Sally has been working on Nevada POLST for 19 years (!), first as Project Manager at the Nevada Center for Ethics & Health Policy, then as Director of that same organization and finally forming the Nevada POLST non-profit in 2013. After working to bring the organization to this point, Sally has handed the gavel to Peggy Ewald, RN.



Peggy is the Director of Clinical Operations at Geriatric Specialty Care in Reno, a practice that has taken a lead in assuring their patients have meaningful Advance Care Planning discussions, with POLST as one of the documents they offer. She has served as the Secretary of Nevada POLST since its inception and has worked along side of Sally during the legislative season meeting with legislators and testifying, sharing an “in-the-trenches” perspective that was so important to our efforts. Peggy also served on St. Mary’s Ethics Committee for 25 years and is currently Treasurer of the Nevada Case Management Society.

Peggy’s experience and natural caring attitude will be of tremendous benefit to POLST and all who POLST serves.

Please welcome Peggy to her new post as President of Nevada POLST!

## POLST - Appropriate Use

Over the next few issues we will present several points that the National POLST Paradigm recently published in a policy statement earlier this year, *Appropriate POLST Paradigm Form Use Policy*. It seems a good time, with the advent of our new legislation, to refresh our knowledge and review some points that have caused concern both nationally and here in Nevada. When the POLST is used inappropriately it undermines the integrity of the program, confuses healthcare providers and disrespects patient's autonomy. It also may violate the law.

We need to always remember that the POLST is not a form, it is a *process* of "eliciting, documenting and honoring patients' preferences about the medical treatments they want to receive during a medical crisis or as they decline in health".

**The POLST is a voluntary program.** Nevada POLST has received several reports of facilities requiring a POLST be completed upon admission. "POLST Form completion should always be voluntary. Just as patients may choose to refuse treatment or not to have an advance directive, patients may refuse to have a POLST Form completed on their behalf. It is inappropriate to require a patient to have a POLST Form because it may be forcing them into either making decisions that they may not be ready to make or participating in advance care planning, which they may not want to do.

A facility may have a policy to *offer* a POLST Form to all appropriate patients, but should never have a *requirement* of completion.

**Completion without knowledge** of a "POLST Form by the patient or surrogate/proxy knowledge is contrary to the purpose and intent of the POLST [program] and violates informed consent and principles of person and family-centered care. Patients have a right to participate in medical decision-making regarding their treatment plan." This may also be regarded as assault or fraud. Unlike other medical orders, the Nevada POLST requires the signature of either the patient or their surrogate/representative. Without a signature, the Nevada POLST is not valid.

**Choose the right patient.** The POLST is to be used by patients who are near the *end* of a life-limiting condition or the *very* frail elderly whose life expectancy is no more than a year—"regardless of patient age or what facility a patient is in. For example, most 65-year-olds are too healthy to have POLST orders and not all residents in a nursing home may be appropriate for a POLST form. Generally, patients who do not meet these criteria are not appropriate to have a POLST Form."

continued next column

## A Different Sort of Hope

A physician recently confessed that they had a hard time telling a patient and/or family that there was no hope. My eyebrows arched...there is always hope, but maybe it is just a different sort of hope. When we think of hope for patients, we may naturally associate it with "cure", but for POLST patients, a cure is not likely. So then, what sort of hope may you offer?

There is hope that they will be comfortable. Hope that their loved ones will be near. Hope that their loved ones will continue family traditions, values, faith, etc. Hope that they can say their good-byes. Hope they won't be forgotten or their grandchildren will remember them.

By exploring other sorts of hope, others may be able to offer more help and care...just as if they were helping with a cure. So, with an expression of hope to have family near, that family can be alerted and make plans. A scrapbook of family events can be made to reaffirm traditions. A video or recording of the patient can be prepared to share with grandchildren.

There is always hope to offer. Hope may just look a bit different near the end.

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### Appropriate use, continued

Although we like to think we know what we would want if we were near the end of a serious illness, but just like other crises, we often don't behave or make the choices we expect we might until confronted with the reality. If completed too far in advance, we may not have the hard experience needed to make a decision regarding treatment in a crisis. This also explains the recommendation to review the POLST if there is a change of health status or transfer to another facility; our realities may change!

"The intended population are the individuals with whom health care professionals can initiate specific and detailed conversations about current diagnosis, prognosis, treatment options, the likely effect those treatments will have on that patient (e.g., what will most likely happen if CPR is attempted) and identify the patient's goals of care. For example, the POLST Form provides medical orders for what happens tonight if a medical crisis occurs given the patient's current medical condition. If conversations with this level of specificity cannot happen, or if the patient is not appropriate for a POLST Form based on their clinical status and prognosis, then a POLST Form should not be offered to, or completed for, that patient (and an advance directive should be offered instead)."

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## Questions Corner

**How do we find out about provisions of the new POLST legislation?** Please be sure to read each issue of the Nevada POLST Post. We will be providing information about the statutory changes and their implications for providers and patients. And, watch your inbox. We will be sending announcements of training and education opportunities. If you are not already on our mailing list, send an email with a request to be added to it.

### When will a new POLST form with the new changes be available?

The legislative changes to the Nevada POLST program will require changes to the form. Our organization will make recommendations that will then be presented to the State for any revisions and then must be approved by the State Board. The current POLST form approval took 6 months. We hope it will be a quicker process this time and we will try to keep everyone apprised of any progress.

Please see our [website](https://www.nevadapolst.org) for more information.

If you have questions about the Nevada POLST program, please reach out to us at any time...[info@nevadapolst.org](mailto:info@nevadapolst.org) or 775-742-6766.

#### Our website provides:

- [Sample POLST forms](#)
- [Starting "The Conversation" tips](#)
- [Links to POLST research](#)
- [Decision guides to explain treatment options](#)

And MUCH more. Visit our site at [www.nevadapolst.org](https://www.nevadapolst.org)