**Step 1: Assess health status and prognosis.**

a. Current Health Status, using the Clinical Frailty Scale® **Check one**

   ___ Category 1: Very Fit: people who are robust, active, energetic and motivated. These people commonly exercise regularly. They are among the fittest for their age.

   ___ Category 2: Well: people who have no active disease symptoms but are less fit than Category 1.

   ___ Category 3: Managing Well: people whose medical problems are well controlled, but are not regularly active beyond routine walking.

   ___ Category 4: Vulnerable: while not dependent on others for daily help, often symptoms limit activities. A common complaint is being “slowed up,” and/or being tired during the day.

   ___ Category 5: Mildly Frail: these people often have more evident slowing, and need help in high order IADLs (finances, transportation, heavy housework, medications). Typically, mild frailty progressively impairs shopping and walking outside alone, meal preparation and housework.

   ___ Category 6: Moderately Frail: people need help with all outside activities and with keeping house. Inside, they often have problems with stairs and need help with bathing and might need minimal assistance (cuing, standby) with dressing.

   ___ Category 7: Severely Frail: completely dependent for personal care, from whatever cause (physical or cognitive). Even so, they seem stable and not at high risk of dying (within ~6 months).

   ___ Category 8: Very Severely Frail: completely dependent, approaching the end of life. Typically they could not recover even from a minor illness.

   ___ Category 9: Terminally Ill: approaching the end of life. This category applies to people with a life expectancy <6 months, who are not otherwise evidently frail.

b. Estimated Prognosis **Check one**

   _ Days to weeks _ Weeks to 3 months _ 3 Months to 6 months _ 6 Months to < 1 year _ > 1 year

**Step 2: Check all advance directives known to have been completed.**

_ Health Care Proxy _ Living Will _ Organ Donation _ Documentation of Oral Advance Directive
Step 3: If there is no health care proxy, assess capacity to complete a health care proxy.

A patient who lacks the capacity to consent to medical orders for life-sustaining treatment may still have the capacity to choose a health care agent and complete a health care proxy. Any patient with that capacity should be counseled to complete a health care proxy, if he/she has not already completed one.

Document the result of patient counseling, if applicable. **Check one**

- Patient retains the capacity to choose a health care agent and completes a health care proxy.
- Patient retains the capacity to choose a health care agent, but chooses not to complete a health care proxy.
- Patient lacks capacity to choose a health care agent.

If there is no health care proxy, and patient chooses not to complete one or lacks capacity to do so, go to Step 8 and select the appropriate checklist. If there is a health care proxy, proceed to Step 4.

Step 4: Determine the patient’s medical decision-making capacity. **Check appropriate line(s) under (A) and (B) (if a required item cannot be checked because the patient has capacity, use the MOLST chart documentation form that aligns with Checklist #1 for adults with medical decision-making capacity):**

(A) Attending Physician Determination **Check both**:

- The attending physician has determined in writing to a reasonable degree of medical certainty that the patient lacks capacity to understand and appreciate the nature and consequences of DNR and Life-Sustaining Treatment orders, including the benefits and burdens of, and alternatives to, such orders, and to reach an informed decision regarding the orders.

- The determination contains the attending physician's opinion regarding the cause and nature of the patient’s incapacity as well as its extent and probable duration, and the determination **is documented below**.

(B) Assessment for Mental Illness or Developmental Disability and Concurring Determination **Check (i), (ii) or (iii) and all line(s) underneath**:

- (i) The attending physician has determined that the patient’s lack of medical decision-making capacity is **not due** to mental illness or a developmental disability; and
  - A concurring physician confirmed that the patient lacks medical decision-making capacity and **documented it below**.

- (ii) The attending physician has determined that the lack of medical decision-making capacity is **due** to mental illness (this does not include dementia); and **Check both**:
  - A concurring physician confirmed that the patient lacks medical decision-making capacity, and **documented it below**.
  - One of the two physicians who determined that the patient lacks medical decision-making capacity is a qualified psychiatrist, and the determination **is documented below**.

- (iii) The attending physician has determined that the lack of medical decision-making capacity is **due** to a developmental disability; and **Check both**:
  - A concurring physician or clinical psychologist confirmed that the patient lacks medical decision-making capacity. Such determination **is documented below**.
  - The concurring physician or clinical psychologist is employed by a Developmental Disabilities Services Office (DDSO), or has been employed for a minimum of two years to render care and service in a facility operated or licensed by the Office for People With Developmental Disabilities, or has specialized training and two years’ experience treating persons with developmental disabilities or has three years’ experience treating persons with developmental disabilities. The determination **is documented below**.
### Chart Documentation Form

For Use with Legal Requirements Checklist #2

Adult patients without medical decision-making capacity who have a health care proxy

(For use in any setting)

Complete each step, check the appropriate lines and complete required documentation, as indicated. Completion of this form serves as documentation of both the conversation and the legal requirements and should remain in the medical record. Use of this form is optional.

### Documentation of Concurring Determination

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**Step 5: Notify the Patient. Check one:**

___ Notice of the determination that the patient lacks medical decision-making capacity has been given to the patient, orally and in writing (the patient may be able to comprehend such notice).

___ Notice of the determination that the patient lacks medical decision-making capacity has not been given to the patient, because there is no indication of the patient’s ability to comprehend such notice.

**Step 6: Identify the decision-maker.**

___ The health care agent is the decision-maker.

**Step 7: Document where the MOLST form is being completed. Check one:**

___ Hospital (see Glossary for definition)

___ Nursing Home (see Glossary for definition)

___ Community (see Glossary for definition)

**Step 8: Be sure you have selected the appropriate MOLST chart documentation form that aligns with the correct legal requirements checklist, based on who makes the decision and the setting. Check one:**

This is the MOLST chart documentation form for use with Checklist #2 (for adults without medical decision-making capacity who have a health care proxy). If this is the appropriate MOLST chart documentation form, proceed to Step 9 below. If this is wrong, find and complete the correct form. All checklists can be found on the Department of Health’s website at http://www.nyhealth.gov/professionals/patients/patient_rights/molst/. All MOLST chart documentation forms and checklists can be found on CompassionAndSupport.org at http://www.compassionandsupport.org/index.php/for_professionals/molst/checklists_for_adult_patients.

___ Checklist #1 - Adult patients with medical decision-making capacity (any setting)

___ Checklist #2 - Adult patients without medical decision-making capacity who have a health care proxy (any setting)

___ Checklist #3 - Adult hospital or nursing home patients without medical decision-making capacity who do not have a health care proxy, and decision-maker is Public Health Law Surrogate (surrogate selected from the surrogate list)

___ Checklist #4 - Adult hospital or nursing home patients without medical decision-making capacity who do not have a health care proxy and for whom no surrogate from the surrogate list is available

___ Checklist #5 - Adult patients without medical decision-making capacity who do not have a health care proxy, and MOLST form is being completed in the community
**Step 9: Discuss goals for care with the health care agent.**
Review what the patient/family knows and wants to know about the patient’s condition/prognosis. Provide new information about patient’s condition/prognosis. Explore common understanding and differences. Determine next steps needed to resolve any differences.

**Briefly summarize content of discussion with the health care agent and the patient’s goals for care.**

_____________________________________________________________________________________
_____________________________________________________________________________________  
_____________________________________________________________________________________  
_____________________________________________________________________________________  
_____________________________________________________________________________________  
_____________________________________________________________________________________  
_____________________________________________________________________________________  
_____________________________________________________________________________________  

**Step 10: Health Care Agent has given informed consent.**

- Health care agent has been fully informed about the patient’s medical condition and the risks, benefits, burdens and alternatives of possible life-sustaining treatment.
- Health care agent has consented to the withholding, withdrawal or delivery of certain life-sustaining treatment, for which medical orders are written.
- If health care agent is consenting to withholding or withdrawing artificial nutrition or hydration, health care agent knows the patient’s wishes regarding the administration of artificial nutrition and hydration (this may be presumed if the health care proxy states that the health care agent knows the patient’s wishes regarding the administration of artificial nutrition and hydration).

**Step 11: Witness Requirements are met. Check one:**
Two witnesses are always recommended. The physician who signs the orders may be a witness. To document that the attending physician has witnessed the consent, the attending physician just needs to sign the order and print his/her name as a witness. Witness signatures are not required -- printing the witnesses' names is sufficient.

- Health care agent has consented in writing.
- Patient is in a hospital or nursing home, the health care agent consented verbally, and two witnesses 18 years of age or older, at least one of whom is a health or social services practitioner affiliated with the hospital or nursing home, have witnessed the consent.
- Patient is in the community, health care agent has consented verbally and the attending physician has witnessed the consent.

**Step 12: Physician Signature**

- The attending physician has signed the MOLST form.

**Step 13: Notify director of correctional facility.**

- For adult patient who are inmates in, or are transferred from, a correctional facility, the attending physician has notified the director of the correctional facility of the determination that the inmate lacks medical decision-making capacity and that the inmate has MOLST orders.

**Total time spent in counseling and in meeting clinical and legal requirements:** ____________ minutes

Start time(s) / Stop time(s): __________________________

Attending Physician Signature: _______________________

Print Name of Attending Physician: ___________________  Date/Time: __________________

Physician NPI: ____________________

**Total time spent in medical decision-making capacity determination:** ____________ minutes

Start time(s) / Stop time(s): __________________________

Concurrent Physician/Clinical Psychologist Signature: _______________________

Print Name of Concurrent Physician/Clinical Psychologist: _______________________

Physician/Clinical Psychologist NPI: ____________________  Date/Time: __________________