



## Overview of MOLST Instructions and Checklists for Adult Patients

### Purpose

- The need for conversation is essential and unchanged.
- Clinical steps are unchanged.
- Determination of medical decision-making capacity remains.
- Supplemental forms are no longer required.
- Checklists are optional and do NOT travel with patient except for patients with developmental disabilities who lack medical decision-making capacity.
- Checklists were developed as an educational tool for health care professionals.
- Under FHCDA, legal requirements for issuing orders to withhold/withdraw LST vary:
  - Based on who makes the decision and where decision is made,
  - Rules for decisions by patients have **NOT** changed,
  - Rules for decisions by health care agents based on health care proxies have **NOT** changed,
  - Rules concerning the use of MOLST to document medical orders issued based on the consent of surrogates are **NEW**.
- Document the conversation in the medical record remains unchanged.
- MOLST Chart Documentation Forms align with the Checklists and contain documentation requirements under NYSPHL, as well as CMS documentation requirements for physician reimbursement. Use of these forms is optional.

### MOLST Use Cases in Adults

- **Checklist #1** - Adult patients with medical decision-making capacity (any setting)
  - Informed consent (patient), witness requirements, physician signature.
  - No change in process.
- **Checklist #2** - Adult patients without medical decision-making capacity who have a health care proxy (any setting)
  - Notify patient, informed consent (HCA), witness requirements, physician signature.
  - Two physicians still must determine capacity as the Health Care Proxy Law has **NOT** changed.
  - No change in process.
- **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** a Public Health Law Surrogate (surrogate selected from the surrogate list)
  - Outlines requirements for decision standards and clinical standards under FHCDA in hospital or NH; two physicians must determine clinical standards.
  - Capacity determination by physician and concurring determination by a health or social service provider (consistent with facility policy).
  - Notify patient, identify and notify surrogate, informed consent (surrogate), witness requirements, physician signature.
  - Determination of “Actively Involved Close Friend” and signed statement in medical record, if applicable.
  - Ethics Committee review as required.
- **Checklist #4** - Adult hospital or nursing home patients without medical decision-making capacity who do **not** have a health care proxy **or** a Public Health Law Surrogate
  - Outlines requirements under FHCDA in hospital or NH.
  - Used less frequently and only when a surrogate cannot be identified.
- **Checklist #5** - Adult patients without medical decision-making capacity who do not have a health care proxy, and the MOLST form is being completed in the community
  - FHCDA does **NOT** apply in the community.
  - Identify if the patient made prior decisions to forego life-sustaining treatment.
  - Guides the provider when the patient lacks medical decision-making capacity but has “clear and convincing” evidence of wishes (living will or repeated oral expression; i.e. an oral advance directive).

### Additional Legal Requirements (for all checklists)

- Notify directors of mental hygiene facility (and Mental Hygiene Legal Services - MHLS) and correctional facilities, if applicable.