

## Chart Documentation Form

Aligns with Legal Requirements 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

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.

\_\_\_\_\_  
LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY/STATE/ZIP

\_\_\_\_\_  
DATE OF BIRTH (MM/DD/YYYY)

GENDER:  MALE  FEMALE

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

a. Current Health Status, using the Clinical Frailty Scale<sup>®</sup> 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

(If there is a health care proxy, and the health care agent can make the decision, stop filling out this form and use the MOLST chart documentation form for use with Checklist #2 for adults with a health care proxy).

**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 result of patient counseling, if applicable. **Check one:**

- \_\_\_ Patient retains the capacity to choose a health care agent and completes a health care proxy. (If the patient completes a health care proxy, use MOLST chart documentation form for use with Checklist #2 for adults with 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.

**Step 4: Determine the patient’s medical decision-making capacity. Check appropriate lines under (A) and (B) (if a required item cannot be checked because the patient has capacity, go to the MOLST chart documentation form for use with Checklist #1 for patients 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 assessment the cause and extent of the patient’s incapacity and the likelihood that the patient will regain medical decision-making capacity, and determination **is documented below.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(B) Assessment for Mental Illness and Concurring Determination Check (i) or (ii) 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; and
  - \_\_\_ A health or social services practitioner has independently determined that the patient lacks medical decision-making capacity. The concurring determination includes an assessment of the cause and extent of the patient's incapacity and the likelihood that the patient will regain medical decision-making capacity, and determination **is documented below.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Chart Documentation Form

Aligns with Legal Requirements 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

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.

\_\_\_\_\_  
LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY/STATE/ZIP

\_\_\_\_\_  
DATE OF BIRTH (MM/DD/YYYY)

GENDER:  MALE  FEMALE

- \_\_\_ (ii) The attending physician has determined that the cause of the lack of medical decision-making capacity ***is due*** to mental illness (this does not include dementia); and ***Check both:***
  - \_\_\_ A health or social services practitioner has independently determined that the patient lacks medical decision-making capacity. The concurring determination includes an assessment of the cause and extent of the patient's incapacity and the likelihood that the patient will regain medical decision-making capacity, and determination ***is documented below.***
  - \_\_\_ Either the attending physician or the health or social services practitioner who determined that the patient lacks medical decision-making capacity is a qualified psychiatrist, and determination ***is documented below.***

---

---

---

---

---

---

---

---

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

- \_\_\_ Notice of the determination that the patient lacks medical decision-making capacity, and that any decision to issue a DNR or DNI order will be made by a surrogate, has been given to the patient (the patient may be able to comprehend such notice).
- \_\_\_ Notice of the determination that the patient lacks medical decision-making capacity, and that any decision to issue a DNR or DNI order will be made by a surrogate, has not been given to the patient, because there is no indication of the patient's ability to comprehend the information.

**Step 6: Identify and notify the appropriate Public Health Law surrogate for DNR/DNI order. Check both:**

- The attending physician has identified a person **from the class highest in priority** who is reasonably available, willing, and competent to serve as a surrogate decision-maker. Such person may designate any other person on the list to be surrogate, provided no one in a class higher in priority than the person designated objects. **Check one:**
- a. Patient's guardian authorized to decide about health care pursuant to Mental Hygiene Law Article 81
  - b. Patient's spouse, if not legally separated from the patient, or the domestic partner
  - c. Patient's son or daughter, age 18 or older
  - d. Patient's parent
  - e. Patient's brother or sister, age 18 or older
  - f. Patient's actively involved close friend, age 18 or older
- The attending physician has notified at least one person on the surrogate list **highest in order of priority** who is reasonably available that he/she will make medical decisions related to DNR and/or DNI orders because the patient has been determined to lack medical decision-making capacity.

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

- Community (see Glossary for definition)

**Step 8: Be sure you have selected the appropriate MOLST chart documentation form that aligns with the 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 #5 (for adults without medical decision-making capacity in the community, who do not have a health care proxy). If this is the appropriate MOLST chart documentation form, proceed to Step 9 below. If this is the wrong form, 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/](http://www.nyhealth.gov/professionals/patients/patient_rights/molst/).

All MOLST chart documentation forms and checklists can be found on the Compassion and Support website at [http://www.compassionandsupport.org/index.php/for\\_professionals/molst/checklists\\_for\\_adult\\_patients](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

## Chart Documentation Form

Aligns with Legal Requirements 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

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.

\_\_\_\_\_  
LAST NAME/FIRST NAME/MIDDLE INITIAL OF PATIENT

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY/STATE/ZIP

\_\_\_\_\_  
DATE OF BIRTH (MM/DD/YYYY)

GENDER:  MALE  FEMALE

**Step 9: Discuss goals for care with the Public Health Law surrogate.**

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 Public Health Law surrogate and the patient’s goals for care.**

---

---

---

---

---

---

---

---

---

---

**Step 10: For DNR and/or DNI orders, surrogate has given informed consent *Check all:***

- \_\_\_ Surrogate has been fully informed about the patient’s medical condition and the risks, benefits, burdens and alternatives of possible life-sustaining treatment.
- \_\_\_ Surrogate has consented to the DNR and/or DNI orders.
- \_\_\_ Surrogate’s decision is *patient-centered*, in accordance with the patient's wishes, including the patient's religious and moral beliefs; or if the patient's wishes are not reasonably known and cannot with reasonable diligence be ascertained, in accordance with the patient's best interests. The surrogate’s assessment is based on the patient's wishes and best interests, not the surrogate’s, and includes consideration of:
  - the dignity and uniqueness of every person;
  - the possibility and extent of preserving the patient's life;
  - the preservation, improvement or restoration of the patient's health or functioning;
  - the relief of the patient's suffering; and
  - any medical condition and such other concerns and values as a reasonable person in the patient's circumstances would wish to consider.

**Step II:** Surrogate’s DNR and/or DNI decision complies with clinical standards, as determined by the physician with independent physician concurrence **Check (i) and/or (ii) and (iii):**

- \_\_\_\_\_ (i) CPR and/or intubation would be an extraordinary burden to the patient **and** an attending physician determines, with the independent concurrence of another physician, that, to a reasonable degree of medical certainty and in accord with accepted medical standards,
  - the patient has an illness or injury which can be expected to cause death within six months, whether or not treatment is provided; **or**
  - the patient is permanently unconscious.
- \_\_\_\_\_ (ii) The provision of CPR and/or intubation would involve such pain, suffering or other burden that it would reasonably be deemed inhumane or extraordinarily burdensome under the circumstances **and** the patient has an irreversible or incurable condition, as determined by an attending physician with the independent concurrence of another physician to a reasonable degree of medical certainty and in accord with accepted medical standards.
- \_\_\_\_\_ (iii) The concurring physician’s determination **is documented below.**

**Step I2:** For medical orders other than DNR and DNI, secure and document “clear and convincing evidence” of the patient’s wishes. (If only DNR and/or DNI orders are entered on the form, go to Step I3.) **Check all:**

- \_\_\_\_\_ There is clear and convincing evidence (see Glossary for definition) of the patient’s wishes, the evidence **has been documented below.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- \_\_\_\_\_ The Public Health Law surrogate has been notified and has been given an opportunity to present any additional evidence.
- \_\_\_\_\_ Check the “Based on clear and convincing evidence of patient’s wishes” box in addition to the “Public Health Law Surrogate” box, if a medical order other than DNR and DNI is being issued based on clear and convincing evidence of the patient’s wishes.

**Step I3:** 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 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.

- \_\_\_\_\_ The surrogate consented in writing.
- \_\_\_\_\_ The surrogate consented verbally, and the attending physician witnessed the consent.

## Chart Documentation Form

Aligns with Legal Requirements 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

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.

_____ LAST NAME / FIRST NAME / MIDDLE INITIAL OF PATIENT
_____ ADDRESS
_____ CITY/STATE/ZIP
_____ DATE OF BIRTH (MM/DD/YYYY)
GENDER: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE

### **Step 14: If the surrogate is a close friend, verify the age and relationship with the patient.**

\_\_\_\_\_ The surrogate is 18 or older and has signed a statement that he or she is a close friend of the patient, or a relative of the patient (other than a spouse, adult child, parent, brother or sister), who has maintained such regular contact with the patient as to be familiar with the patient's activities, health, and religious or moral beliefs. **A copy of the signed statement is below.**

I, \_\_\_\_\_, hereby state under penalty of perjury that I am a close friend of \_\_\_\_\_ (the patient), have maintained regular contact with the patient, and am familiar with the patient's activities, health, and religious or moral beliefs. I am familiar with these matters regarding the patient as a result of: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Close Friend: \_\_\_\_\_ Print Name: \_\_\_\_\_  
Date/Time: \_\_\_\_\_

### **Step 15: Physician Signature**

\_\_\_\_\_ The attending physician has signed the MOLST form.

### **Step 16: Notify director of correctional facility.**

\_\_\_\_\_ For adult patients 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 the inmate has MOLST orders.

\_\_\_\_\_  
Last Name/First Name/Initial of Patient

\_\_\_\_\_  
Date of Birth (MM/DD/YYYY)

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: \_\_\_\_\_

Physician NPI: \_\_\_\_\_ Date/Time: \_\_\_\_\_

Total time spent in assessment of medical decision-making capacity: \_\_\_\_\_ minutes

Start time(s) / Stop time(s): \_\_\_\_\_

Concurrent Health or Social Service Practitioner Signature: \_\_\_\_\_

Print Name of Concurrent Health or Social Service Practitioner: \_\_\_\_\_

Physician NPI (if applicable): \_\_\_\_\_ Date/Time: \_\_\_\_\_

Total time spent in assessment of medical decision-making capacity and/or patient-centered and clinical standards set forth in the Family Health Care Decisions Act: \_\_\_\_\_ minutes

Start time(s) / Stop time(s): \_\_\_\_\_

Concurrent Physician Signature: \_\_\_\_\_

Print Name of Concurrent Physician: \_\_\_\_\_

Physician NPI: \_\_\_\_\_ Date/Time: \_\_\_\_\_