

## ACTION REQUIRED

### AB 3000 (Wolk), CHAPTER 266, STATUTES OF 2008

**Affects:** Residential Care Facilities for the Elderly, Adult Residential Facilities, Residential Care Facilities for the Chronically Ill, Social Rehabilitation Facilities, Adult Day Programs, Adult Residential Care Facilities with Persons with Special Health Needs Services

**Subject:** Health care decisions: Life-Sustaining Treatment

**Summary:** AB 3000 amends Probate Code sections 4780, 4782, 4783, 4784, and 4785. AB 3000 adds Probate Code sections 4781.2, 4781.4, and 4781.5.

Previously, most advanced health care directives focused on "do not resuscitate" orders. The Probate Code refers to "requests to forego resuscitative measures"; this new law amends the Probate Code by redefining the requests as "requests *regarding* resuscitative measures" (italics added). Within this definition is the Physician's Order for Life-Sustaining Treatment (POLST), which provides more detailed instructions as to when and to what level resuscitative measures should be employed on an individual.

Many advanced health care directives are designed simply to name a decision-maker for the individual if they become incapacitated. The named person then is able to make health care decisions for the other. These forms are often not available to health care providers when the need arises to ensure the patient's wishes are followed. A POLST is a physician's order that provides greater detailed instruction related to end-of life treatment; e.g., when, where, to what extent, and under what circumstances life-sustaining resuscitative measures should be employed. The POLST form does not supplant Advanced Directives. The resident determines which type of form he/she wishes to use related to end-of life care/treatment decisions.

The POLST is useful because 1) it is an immediately-actionable, signed physician order on a form approved by the Emergency Medical Services Authority; 2) it is an order that addresses a range of life-sustaining interventions as well as an individual's preferred intensity of treatment of the intervention; and 3) it is a form that is recognized, adopted, and honored across treatment settings.

The POLST is to be completed by a health care provider based on patient preferences and medical indications, and signed by a physician and the patient or the patient's legally-recognized health care decision maker. A POLST may be executed by the legally-recognized health care decision maker only if the individual lacks capacity. A physician may issue a new POLST if, after consulting with the patient (or his or her legally-recognized health care decision maker), more current information about the patient's health status and goals of care merit such an issuance. An individual with capacity may request alternative treatment to that specified in his or her POLST at any time.

The California Coalition for Compassionate Care (CCCC) is leading implementation efforts of the POLST in California. The Coalition has developed a POLST form similar to that which is used in the six states that have fully implemented the POLST paradigm.

The California form is on #65 stock paper, bright pink in color for easy identification in the resident's file. Additional information, including a link to download the form, may be found on CCC's website, [www.finalchoices.org](http://www.finalchoices.org).

**Implementation:** These provisions have an effective date of January 1, 2009.

When a resident of a licensed care facility as referenced in the "Affects" section of the previous page with a POLST form completed by a health care professional (based on the resident's preferences and medical indications) and signed by a physician, facility operators must place it in the resident file. The POLST is a physician's order and should be honored and processed in the same manner as any other physician's order. Note: as of December 15, 2008, there is no approved final version of the POLST form. It is presumed that this form will be present on the CCC's website in a final version in the near future.

Overview of POLST:

- Signed photocopies and Faxed copies are acceptable, although maintenance of the original POLST in the file is encouraged.
- Any section of the POLST that is incomplete implies full treatment for that section.
- HIPAA allows disclosure of the POLST to other health care professionals when necessary.
- The POLST should follow the resident if he or she is transferred or discharged.

This new law requires providers to:

- Accept and honor client/resident POLST forms.
- Review POLST to understand client/resident wishes.
- Ensure confidentiality of form and information contained in form.
- File client/resident POLST forms in client/resident records.
- As determined necessary, present client/resident POLST form to healthcare professionals, e.g. Emergency Medical Professionals, Physicians, et al.
- Ensure POLST form accompanies client/resident upon discharge from the facility to a different level of care or in cases where emergent services are required.
- Ensure at all times that the client/resident's condition or treatment needs can be met within the scope of licensure.

This new law requires Licensing Program Analysts to:

- Upon request or during a facility visit, provide copies of the Implementation Instructions to the licensee or provide information on how to obtain this information electronically.
- Process complaints related to POLST in consultation with the Licensing Program Manager to determine if a violation of law or regulation exists. Remember POLST is a physician's order.