

# Second Thoughts Connecticut

Advocates against the legalization of assisted suicide

## Testimony regarding HB 6521, An Act Concerning Medical Orders for Life-Sustaining Treatment

Senator Gerratana, Rep. Johnson, and members of the Public Health Committee:

Second Thoughts Connecticut is composed of citizens with disabilities and advocates who oppose the legalization of assisted suicide (also called "aid-in-dying"), which we view as endangering the lives of people with disabilities and elders. We are here today to express our opposition to HB 6521, An Act Concerning Medical Orders for Life-Sustaining Treatment.

At first glance, Medical Orders for Life Sustaining Treatment (MOLST) would seem to enhance patient autonomy by allowing for choices regarding CPR, intubation, antibiotics, and nutrition and hydration to be centralized on a brightly colored form signed by a health care professional as an actionable medical order. Why would anyone object to this? Specifically, why would a disability advocacy organization have serious issues with MOLST?

Our first answer is that we need to look carefully at the community promoting this type of order and examine their broader agenda. MOLST (more commonly known as Physician Orders for Life-Sustaining Treatment, or POLST) was conceived by the Center for Ethics in Healthcare at Oregon Health Science University in the 1990's. The Center for Ethics in Healthcare at OHSU is also the publisher of an assisted suicide guidebook, *The Oregon Death With Dignity Act: A Guidebook for Health Care Professionals* [http://books.google.com/books/about/The\\_Oregon\\_Death\\_with\\_Dignity\\_Act.html?id=NxprAAAAMAAJ](http://books.google.com/books/about/The_Oregon_Death_with_Dignity_Act.html?id=NxprAAAAMAAJ). Moreover, among the leading promoters of POLST are Compassion and Choices and the Death With Dignity National Center, which are also the leading organizations in the assisted suicide movement.

Those promoting POLST/MOLST clearly have an agenda, and it is heavily biased toward steering people to refuse potentially life-saving treatment. Paul Drager JD, who will be testifying in favor of HB 6521, describes MOLST as "an out-of-hospital 'do not resuscitate' form." <http://www.medicalethicsandme.org/2013/03/understanding-molst.html> POLST advocates are focused on preventing unwanted medical interventions (overtreatment), and lack awareness regarding either the experience of people with disabilities or elder abuse. People with disabilities are too often denied life-saving treatment (undertreatment), and are subject to subtle social pressures that steer us toward death because we are perceived, and sometimes perceive ourselves, as a burden.

Similarly, elder abuse is a major consideration. According to a policy brief by the California Advocates for Nursing Home Reform (CANHR), nursing home residents in California have frequently been told they must have a POLST, even though it is supposed to be voluntary ["Physician Orders for Life Sustaining Treatment: Problems and Recommendations" [http://www.canhr.org/reports/2010/POLST\\_WhitePaper.pdf](http://www.canhr.org/reports/2010/POLST_WhitePaper.pdf) (p. 3).] In California, anyone can

sign a POLST for a patient who lacks capacity, even an heir (p. 4), and the form does not require a witness [http://www.healthinsight.org/Internal/assets/EOL\\_Workshop/CA-POLST-form-web\\_english.pdf](http://www.healthinsight.org/Internal/assets/EOL_Workshop/CA-POLST-form-web_english.pdf). Relatives and heirs may steer a vulnerable person into signing a POLST form refusing treatment when that is not their true wish (e.g. "Elder Abuse Using a POLST form: a phone interview with a caregiver in early Nov." <http://www.youtube.com/watch?v=R-5rgqj0FOo>)

Some of the training materials associated with POLST aimed at non-physician facilitators are strongly biased against treatment, or tube feeding for nutrition and hydration. Some of these training materials are put out by the Respecting Choices program at the Gunderson Lutheran Medical Foundation in La Crosse, Wisconsin. The information regarding tube feeding emphasizes all the possible negative effects while glossing over potential benefits:

You may have fears about not getting food or water. You may think you will starve or be uncomfortable. This is not true.

When food and water are not given, you will die naturally from your chronic illness. You will not feel hungry, and you will receive good care to make you comfortable. (reprinted at [http://www.hospiceofcincinnati.org/downloads/Tube Feeding - What You Should Know.pdf](http://www.hospiceofcincinnati.org/downloads/Tube_Feeding_-_What_You_Should_Know.pdf))

While this may be true in certain cases, it is not universally true. Starvation and dehydration can be a very painful way to die.

The information sheet also claims that tube feeding works best if one "need[s] tube feeding for a short time to recover from surgery or a sudden illness" but does not work as well if one's body "is becoming weak from chronic health problems" or has "an illness that can no longer be treated." After a period of adjustment, some people live for decades with feeding tubes, and many enjoy full and active lives. For one of many success stories, see [http://www.oley.org/oley\\_homepic\\_7.html](http://www.oley.org/oley_homepic_7.html).

The POLST/MOLST forms, with their checklist format, oversimplify the complex choices that are involved in making good medical judgments. The aforementioned example of tube feeding, which is appropriate in some circumstances but not others, is reduced on the form to a mere choice of checking yes, no, or a trial period. CPR is reduced to just yes or no. It does not allow one to say yes under particular circumstances and/or no under others. It is akin to a poorly worded advance directive; and the choices in section B, between "comfort measures only," "limited additional interventions," and "full treatment," are very confusing.

There are also issues regarding abuse and informed consent. At least three states—Wisconsin, Oregon, and Montana—do not require the patient's signature on the POLST form. While HB 6521 says that patient participation in the pilot program is voluntary, it is not clear that the patient's signature is required on the form itself. Also, because these forms travel with patients, do not require the signature of the attending physician, and might not be revised with changing medical needs, there is the risk that a POLST form could override a patient's future wishes. The document also overrides a power of attorney. It reads, "FIRST follow these orders, then contact physician."

POLST/MOLST has been used with people who have not been diagnosed with a terminal illness, often in violation of state regulations. Delaware recently suspended its MOLST form. A letter from Karyl T. Rattay, MD, Director of Delaware's Division of Public Health, notes that "[i]t has been determined that healthcare providers are using the MOLST forms beyond the legal parameters set forth in regulation 4304" and that "[t]here have been reports of facilities and healthcare providers completing "MOLST" forms on patients who have not been determined to be terminally ill." [http://www.patientsrightscouncil.org/site/wp-content/uploads/2012/12/Delaware\\_MOLST\\_11\\_12.pdf](http://www.patientsrightscouncil.org/site/wp-content/uploads/2012/12/Delaware_MOLST_11_12.pdf) Given Dr. Rattay's language where the providers complete the MOLST forms on the patients, one must wonder whether patients are actually giving their consent.

Finally, we are concerned that HB 6521 could be a vehicle for assisted suicide legislation through an amendment on the House floor if HB 6645 fails to get reported favorably out of the committee process. We have seen controversial legislation fail in committee only to be revived by strike-all amendments to dummy bills. Amending HB 6521 to add the related issue of legalizing assisted suicide would allow assisted suicide legislation to bypass the Judiciary Committee.

Like legalized assisted suicide / "aid-in-dying," MOLST/POLST claims to expand choice while in practice it takes away choice and steers vulnerable elders and people with disabilities toward death. We urge you to have second thoughts about HB 6521 and MOLST/POLST. Thank you.

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