

Summary of the Strategy for Implementing Electronic Advance Health Care Directives & MOLST Forms

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Background

Advance health care directives (advance directives) enable a person to appoint a health care agent to make treatment decisions and/or to provide specific instructions regarding potential treatments so that health care providers can administer care that is in accordance with the patient's choice.¹ A living will is a more individualized and customized form of an advance directive. These legal documents allow patients to inform health care providers on future medical care decisions even after becoming incapacitated. Advance directives typically become effective when a patient is no longer able to articulate medical decisions, such as in a comatose or terminal state. Having advance directives available electronically at the time and place of care could help ensure that a patient's wishes are known and honored. State law allows for the Maryland Department of Health & Mental Hygiene (DHMH) to establish an advance directives registry, subject to the availability of funds; funding is currently unavailable to support this initiative.²

Medical Orders for Life Sustaining Treatment (MOLST) forms are another means a person can use to document a patient's treatment preferences. A MOLST form is a standardized medical order form that is honored all health care facilities and replaces the Maryland Institute for Emergency Medical Services Systems *Do-Not-Resuscitate* form.³ This form is a two page order, generated by a physician, indicating which medical treatments a patient chooses or does not choose. It is valid across the continuum of care, and the details included on the form remind both patients and providers of available options for end of life treatment. Twelve states, including Maryland, have implemented and about 25 other states are developing a MOLST or comparable form.

The Maryland General Assembly enacted a law in 2011 that requires long-term and post-acute care providers, as well as hospitals in certain situations, to create and maintain the MOLST form for patients under their care.⁴ Maryland law stipulates that a copy of the MOLST form must be kept in the patient's medical record, accompanies the patient when the patient is transferred to a health care facility, and a copy is given to the patient or health care agent within 48 hours of completion or sooner if the patient is transferred.⁵

Recommendations

In 2011, the Office of the National Coordinator for Health Information Technology awarded the MHCC about \$1.6 million to pilot the electronic exchange of information. Funding for this pilot also calls for Maryland to plan for and test the availability of electronic advance directives and MOLST forms. The MHCC convened a focus group⁶ to deliberate on the technical and policy challenges and propose solutions to enabling electronic advance directives and MOLST forms. The focus group agreed that a phased approach to broad exchange of

¹ *Health - Advance Directives – Registry –Drivers' Licenses and Identification Cards*, Senate Bill 236 of 2006. Available online at: <http://mlis.state.md.us/2006rs/bills/sb/sb0236e.pdf>.

² Ibid.

³ *Health Care Decisions Act – "Medical Orders for Life-Sustaining Treatment" Form*, House Bill 82. Available online at: http://mlis.state.md.us/2011rs/chapters/noln/Ch_434_hb0082E.pdf.

⁴ Ibid.

⁵ Ibid.

⁶ Participants included representation from the Department of Health & Mental Hygiene; the Maryland Institute for Emergency Medical Services Systems; the AARP; the Health Facilities of Maryland; emergency room physicians and Chief Information Officers of Maryland acute care hospitals; the Commission on Aging; the Hospice and Palliative Care Network of Maryland; MedChi, the State Medical Society; health systems; and long term care facilities.

electronic advance directives and eMOLST forms would enable widespread adoption and use of these documents. The focus group proposed the following recommendations:

1. Create a patient managed registry for advance directives

Patients can make their own health documents available to treating providers via the statewide HIE by using a personal health record (PHR) system connected to the statewide HIE. In general, a PHR is a tool that enables patients to store, reference, manage, and share their health information electronically. Patient controlled PHRs would allow patients to access advance directives using a PHR tethered to the statewide HIE and allow treating providers to query information from the advanced directive through the statewide HIE.⁷ This method aligns with existing Maryland regulation that defines the requirements for an advance directives registry.⁸ COMAR 10.23.10, *Advance Directive Registry*, specifies the DHMH may provide for the registry either directly or on a contractual basis with a third party.⁹

2. Develop a registry for electronic MOLST forms

Establish an electronic MOLST registry (registry) that is accessible via the statewide HIE. Providers who generate a MOLST form upon discharge for defined populations should be required to submit this information electronically to a registry maintained by the statewide HIE. Providers would query documents in the registry using a secure web portal. Exclusions for electronic registry submission requirements would apply to providers with insufficient Internet access or under specific circumstances.¹⁰

Changes to COMAR statute would likely be required to implement a registry for electronic MOLST forms and to require all MOLST forms to be submitted to the registry. House Bill 82, *Health Care Decisions Act – “Medical Orders for Life-Sustaining Treatment” Form*, from the 2011 legislative session, specifies that MOLST forms may be transferred electronically when consistent with the instructions for use of the form.¹¹ Additionally, the statute and/or regulations should be modified as appropriate to require that when a MOLST form is signed and copied to a patient chart, a copy must also be sent to the registry.

⁷ The Chesapeake Regional Information System for Our Patients (CRISP).

⁸ COMAR 10.23.01, *Advance Directive Registry*. Available at: http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.23.01.*.

⁹ COMAR 10.23.01, *Advance Directive Registry*. Available at: http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.23.01.*.

¹⁰ An Exceptions Committee will be established by the MHCC and CRISP to develop policies around waiver requests.

¹¹ *Health Care Decisions Act – “Medical Orders for Life-Sustaining Treatment” Form*, House Bill 82. Available online at: http://mlis.state.md.us/2011rs/chapters_noln/Ch_434_hb0082E.pdf.