Department of Health
Nursing Care Quality Assurance Commission

Advisory Opinion

The Nursing Care Quality Assurance Commission (NCQAC) issues this advisory opinion in accordance with WAC 246-840. An advisory opinion adopted by the NCQAC is an official opinion about safe nursing practice. The opinion is not legally binding and does not have the force and effect of a duly promulgated regulation or a declaratory ruling by the NCQAC. Institutional policies may restrict practice further in their setting and/or require additional expectations to assure the safety of their patient and/or decrease risk.

Title:	Portable Orders for Life Sustaining Treatment (POLST): Scope of Practice for Registered Nurses, Licensed Practical Nurses, and Nursing Assistants *Number:* NCAO 5.02
References:	Chapter 18.79 RCW Nursing Care Chapter 246-840 WAC Practical and Registered Nursing Chapter 70.245 RCW Death with Dignity Act Chapter 246-978 WAC Death with Dignity Act Requirements Chapter 70.122 RCW Natural Death Act Chapter 71.32 RCW Mental Health Advanced Directives RCW 43.70.480 Emergency Medical Personnel—Futile Treatment and Natural Death Directives-Guidelines
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Supersedes:	Physician's Orders for Life Sustaining Treatment (September 12, 2014) Physician's Orders for Life Sustaining Treatment (July 10, 2015)
Approved By:	Nursing Care Quality Assurance Commission (NCQAC)

Conclusion Statement

The Nursing Care Quality Assurance Commission (NCQAC) supports honoring patient choices about end-of-life planning and following medical orders implementing patient decisions. Subjecting patients to unwanted medical treatment is contrary to best practices and nursing principles. The Registered nurse (RN) and licensed practical nurse (LPN) may follow valid POLST in any setting. The advanced registered nurse practitioner (ARNP), or other authorized health care practitioner (physician or physician assistant), is responsible for obtaining informed consent and completing POLST based on individual or legal decision-maker wishes.

The nursing assistant-registered/nursing assistant-certified (NA-R/NA-C), and other unlicensed assistive personnel (UAP) may use nursing judgment during an emergency. This includes following instructions in Section A of POLST indicating, "Attempt Resuscitation – Perform Cardiopulmonary Resuscitation (CPR)" or "Do Not Attempt Resuscitation (DNAR) – Allow Natural Death." An unresponsive patient or a patient without a pulse is considered an emergency.

The NA-R/NA-C may follow orders in Section B of the POLST under the direction and supervision of the RN or LPN. The NCQAC does not have authority to define scope of practice for Certified-Home Care Aides (C-HCAs) – the Secretary of Health has authority to write rules defining the scope of practice for C-HCAs.

The nurse or NA-R/NAC should be aware that following a POLST is similar to carrying out any other medical order – there is no legal immunity (except for emergency responders). Healthcare providers are accountable and responsible for following the standard of care.

Background and Analysis

The NCQAC received a formal request from the Washington State Department of Social and Health Services (DSHS) in 2014 as to whether current standards of practice for the NA-R/NA-C, and C-HCA allow them to follow doctor's orders to independently implement a "No CPR" order, including POLST. In 2021, DSHS issued letters to nursing homes, adult family homes, and assisted living facilities regarding concerns about the lack of immunity. The letters stated that following a POLST would be out of the scope of practice for UAP (including nursing assistants and C-HCAs). The Washington State DSHS Developmental Disabilities Administration (DDA) established POLST policies for community residential services providers that require the residential service to obtain written approval from DDA to implement a POLST. Institutions, agencies, and employers may provide and/or require POLST training.

The Washington State Medical Association (WSMA) changed the form in April 2021. The title changed from "Physician Orders for Life Sustaining Treatment" to "Portable Orders for Life Sustaining Treatment" and WSMA made other revisions within the sections. See a summary of those revisions on their website for more information.

Overview of POLST

A POLST is a portable medical order form that summarizes a patient's wishes for end-of-life treatment. POLST complements, but does not replace, the patient's advance directive. It turns the patient's wishes in the advance directive, or wishes provided verbally, into medical orders which may be followed by healthcare providers. An authorized healthcare provider (ARNP, physician (MD/DO), or physician assistant), and the patient or legal decision-maker must sign the form. The RN or LPN may discuss and explain the POLST and the decisions it contains with the patient or the legal decision-maker, or family member/friend as identified in state law.

The purpose of a POLST is to improve communication of patient decisions to accept or decline medical intervention and life sustaining treatment, in any health care setting, to ensure these decisions are

honored when the patient cannot communicate. Section A of POLST contains instructions on the patient's decisions about the level of medical care they want, including "CPR/Attempt Resuscitation" (Full Treatment in Section B) or "DNAR" (Allow Natural Death). Section B includes orders for "Full Treatment, Selective Treatment, and Comfort-Focused Treatment." Section B may include medical interventions, including use of oxygen, suction, airway support, intravenous fluids, antibiotics, blood products, and advanced interventions such as intubation, mechanical ventilation, and other intensive care-related procedures.

The POLST should go with the patient from one healthcare setting to another to ensure the patient receives care consistent with their healthcare decisions. Examples of settings where a patient may have a POLST include hospitals, nursing homes, community-based settings (adult family homes, assisted living facilities, residential homes for individuals with developmental disabilities), hospice, in-home settings, correctional facilities, and schools.

Legal Context

The nursing and nursing assistant laws and rules do not explicitly address POLST. The Department of Health has established guidelines related to emergency medical personnel (licensed or authorized under Chapter 18.73 RCW) for someone with a POLST (RCW 43.70.480). Emergency medical personnel have legal immunity protection for all care they provide including while following a POLST. RCW 18.71.210.

The Washington Natural Death Act provides immunity for the caregiver following an advance directive. RCW 70.122.051. If the advance directive and POLST are consistent, the caregiver should have legal immunity when following a POLST. The nurse and UAP should honor the POLST as they would follow any other medical order even if the patient does not have an advance directive.

UAP Credentialing

A person with the NA-R/NA-C credential may work under that credential or as a non-credentialed UAP, depending on whether they are working under the direction and supervision of the RN or LPN. The NA-R/NA-C is working under that credential if RN or LPN supervision occurs. This occurs in many settings, including hospitals, nursing homes, community-based settings, hospice, and in-home care settings. Persons with the NA-R/NA-C credential are not working under that credential when they are working without nursing supervision. This occurs in settings where nursing supervision is not available such as home-based or residential care facilities.

Supervision is defined as providing guidance and evaluation for the accomplishment of a nursing task or activity with the initial direction of the task or activity; periodic inspection of the actual act of accomplishing the task or activity; and the authority to require corrective action WAC 246-840-010 (34). Indirect supervision means the nurse who is supervising is not on the premises but has given written or oral instructions for the care and treatment of the patient WAC 246-840-010(22)(c).

The NA-R/NA-C and other UAP may not perform tasks that require nursing judgment (WAC 246-841-405) except in emergency situations RCW 18.79.240(1)(b) and (2)(b), WAC 246-841-400 identifies

core competencies for the NA-R/NA-C that include taking vital signs (blood pressure, pulse, respirations, and temperature). It also allows the NA-R/NA-C with proficiency in CPR to perform CPR independently (without delegation). Because the NA-R/NA-C may take vital signs, they may independently determine that a patient has no pulse.

The NA-R/NA-C or other UAP may use nursing judgment to assess if the patient is unresponsive or has no heartbeat. A nonresponsive patient, with or without a heartbeat, is an emergency, even if the death is expected. The NA-R/NA-C or other UAP should follow Section A of the POLST to either provide CPR or provide comfort care while allowing a natural death.

Section B of POLST may include medical interventions outside the scope of the NA-R/NA-C or other UAP. Some activities identified in the POLST Section B may be delegated to the NA-R/NA-C or other UAP depending on the scope of practice, task, equipment available, and competency of the NA-R/NA-C. The RN or LPN may delegate tasks of nursing care within their scope of practice if the nurse determines it is the best interest of the patient (RCW 18.79.260(3) following the delegation process.

While the ARNP, the RN, and the LPN may determine or pronounce death, it is not within the NA-R/NA-C's scope of practice (WAC 245-840-830).

The NCQAC does not have authority over scope of practice for C-HCAs regulated by Chapter 18.88B RCW. The Secretary of Health does have authority to write rules to describe the scope of practice for C-HCAs and may include in their rules the C-HCA's ability to follow a person's wishes in Section A of the POLST, similar to the NA-R/NA-C. A C-HCA is considered a credentialed UAP and in an emergency situation may use nursing judgment to assess if the patient is unresponsive or has no heartbeat.

Recommendations

Subjecting a patient to unwanted medical treatment is contrary to best practices and nursing principles. The NCQAC makes the following recommendations to honor POLST orders:

Facility Recommendations

- Develop institutional policies and procedures relevant to POLST and advance directives.
- Address the existence of advance directives and/or POLST in the plan of care for all patients and residents, including those individuals not receiving nursing care. Review POLST upon arrival of the patient – they should not be routinely re-written as part of the admission process. Consider whether POLST needs updating with a newer version. It is an expectation that the nurse, NA-R/NA-C and other UAP will honor a prior version of a valid POLST.
- Review the POLST if the patient is transferred from one care setting or care level to another; if there is substantial change in the patient's health status; or if the patient's or legal decision-maker's treatment preferences change.
- Direct that discussions about the appropriateness of the POLST or making significant changes to a POLST should include the patient's medical provider, the patient/legal decision-maker, and

key family members. These discussions should include a review of the patient's medical history and recommendations from treating providers.

- Make sure supervising nursing staff provides instructions to the NA-R/NA-C or other UAP on each patient's plan of care including guidance on calling for help during an emergency.
- The patient's care plan should specify if the patient should not receive CPR under any circumstances (including choking, aspiration, or accident) due to advanced dementia, osteoporosis, or other contra-indications to chest compressions or other resuscitative efforts.
- Conduct training for supervising staff and bedside personnel in recognizing and following POLST orders, as appropriate for their credentials.
- Consider whether individual staff members may have conscientious objection to following POLST instructions and how to accommodate them.

Admission Recommendations

The existence of advance directives and/or POLST should addressed within the first nursing assessment or as part of the comprehensive, on-going assessment and care planning process. Steps should include:

- Review the form for completeness and confirm with the patient or decision-maker that the POLST has not been revoked or superseded by a subsequent POLST. Photocopies and faxes of signed POLST forms are legal and valid to add to medical records or release to other care providers following the Health Insurance Portability and Accountability Act (HIPAA).
- Document the time and date, the parties involved, essence of the conversation, and any follow-up plans.
- POLST should not be routinely re-written when the patient is admitted—obtain a countersignature on the original POLST by a provider with facility privileges, if needed.
- Place a paper or scanned copy of the original document (marked "copy") in the medical record.
- Prominently display the original POLST document in an easily accessible and visible location.
- Move the original POLST form from one setting to another with the patient.
- Require review of the POLST within a reasonable time of admission by the facility or institution's interdisciplinary team; consider if the order is appropriate for the patient's current medical condition and known end-of-life wishes; whether there is conflict with institutional policy; discuss issues; and resolve as soon as possible.
- Consider if the patient has contraindications to CPR which mean a DNAR should be honored even in cases of choking or accidents. Patients may have advanced dementia, osteoporosis, severe bleeding disorders or other conditions in which CPR interventions cause more harm than benefit to the patient Note "DNAR-No Exceptions" in Section A, initialed by a qualified health care practitioner (ARNP, physician or physician assistant).
- Mark all voided versions as "void" in large letters.
- Notify the patient's medical provider as soon as possible when a patient or legal decision-maker requests to change or void POLST.
- Consider plans for transfer to an appropriate setting when comfort measures or other required care is not available or not within the scope of practice of the nurse, NA-R/NA-C or other UAP in the current setting.

- Read the "Directions for Health Care Professionals" on the form.

Recommendations During an Emergency Event
The NCQAC recommends the following steps when a patient is not responsive or has no heartbeat:

- Call "911," nursing supervisor, or hospice (if the patient is on hospice care) to get emergency help.
- Do not initiate CPR If the patient's POLST indicates "No CPR/Allow Natural Death," (always provide comfort care regardless of CPR status).
- Under most circumstances, if a person's heartbeat stops during a witnessed choking incident or other accident, perform basic first aid measures per standard training. If the person has no pulse or becomes nonresponsive, begin CPR even if the POLST says "No CPR/allow natural death." Continue CPR until licensed staff or emergency medical responders arrive. Refer to each patient's POLST and plan of care to become familiar with their specific decisions. The patient's POLST may say "DNAR-No Exceptions." These patients should not receive CPR.
- Check the patient's heartbeat if someone started CPR on a patient with a DNAR order. Continue emergency care if there is a pulse. If there is no pulse, stop CPR.
- Stay with the patient until licensed staff, hospice, or emergency medical responders arrive or give further guidance.

Conclusion

The RN and LPN may follow the directions in a POLST up to their scope of practice. The NA-R/NA-C may use nursing judgement during an emergency even if the patient's death is expected. The NA-R/NA-C and other UAP may use nursing judgment to follow instructions in Section A of the POLST indicated "CPR/Attempt Resuscitation" or "DNAR (Allow Natural Death)" when a patient is nonresponsive or has no heartbeat. The NA-R/NA-C may follow directions in section B of a POLST within their core competencies under the direction and supervision of a RN or LPN or through the delegation process, as appropriate. The RN or LPN may determine and pronounce death. The NA-R/NA-C may not determine or pronounce death.

References

The Pearls of Physician Orders for Life Sustaining Treatment (POLST): Translating Patient Decisions into Treatment Orders (nursingworld.org)

Leading Age: POLST Information

National POLST: Portable Medical Orders for Seriously Ill or Frail Individuals

Washington State Department of Health: POLST Information

Washington State Department of Health Emergency Medical Services (EMS) Systems: POLST

Washington State DSHS Aging and Long-Term Support Administration (ALTSA): Legal Planning

Washington State DSHS: Letters Regarding POLST

Washington State DSHS Operational Reporting Requirements for Residential Services Providers (Policy 6.09) 2013

Washington State Medical Association: POLST Information

Washington State Hospital Association: (WSHA) POLST Resources