

1 AN ACT relating to medical order for scope of treatment.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 311.6225 is amended to read as follows:

4 (1) An adult with decisional capacity, an adult's legal surrogate, or a responsible party  
5 may complete a medical order for scope of treatment directing medical  
6 interventions. The form shall have the title "MOST, Medical Orders for Scope of  
7 Treatment" and an introductory section containing the patient's name and date of  
8 birth, the effective date of the form, including the statement "Form must be  
9 reviewed at least annually" and the statements "HIPAA permits disclosure of  
10 MOST to other health care professionals as necessary" and "This document is based  
11 on this person's medical condition and wishes. Any section not completed indicates  
12 a preference for full treatment for that section." The form shall be in substantially  
13 the following order and format and shall have the following contents:

14 (a) Section A of the form shall direct cardiopulmonary resuscitation when a  
15 person has no pulse and is not breathing by selection of one (1) of the  
16 following:

17 1. "Attempt Resuscitation (CPR)"; or

18 2. "Do Not Attempt Resuscitation"; and

19 include the statement "When not in cardiopulmonary arrest, follow orders in  
20 B, C, and D.";

21 (b) Section B of the form shall direct the scope of treatment when a person has a  
22 pulse or is breathing by selection of one (1) of the following:

23 1. Full scope of treatment, including the use of intubation, advanced airway  
24 interventions, mechanical ventilation, defibrillation or cardioversion as  
25 indicated, medical treatment, intravenous fluids, and comfort measures.

26 This option shall include the statement "Transfer to a hospital if  
27 indicated. Includes intensive care. Treatment Plan: Full treatment,

- 1 including life support measures.";
- 2 2. Limited additional intervention, including the use of medical treatment,
- 3 oral and intravenous medications, intravenous fluids, cardiac monitoring
- 4 as indicated, noninvasive bi-level positive airway pressure, a bag valve
- 5 mask, and comfort measures. This option excludes the use of intubation
- 6 or mechanical ventilation. This option shall include the statement
- 7 "Transfer to a hospital if indicated. Avoid intensive care. Treatment
- 8 Plan: Provide basic medical treatments."; or
- 9 3. Comfort measures, including keeping the patient clean, warm, and dry;
- 10 use of medication by any route; positioning, wound care, and other
- 11 measures to relieve pain and suffering; and the use of oxygen, suction,
- 12 and manual treatment of airway obstruction as needed for comfort. This
- 13 option shall include the statement "Do not transfer to a hospital unless
- 14 comfort needs cannot be met in the patient's current location (e.g. hip
- 15 fracture).".

16 These options shall be followed by a space for other instructions;

17 (c) Section C of the form shall direct the use of oral and intravenous antibiotics  
18 by selection of one (1) of the following:

- 19 1. Antibiotics if indicated for the purpose of maintaining life;
- 20 2. Determine use or limitation of antibiotics when infection occurs;
- 21 3. Use of antibiotics to relieve pain and discomfort; or
- 22 4. No antibiotics, use other measures to relieve symptoms.

23 This option shall include a space for other instructions;

24 (d) Section D of the form shall:

- 25 1. Have the heading "Medically Administered Fluids and Nutrition: The
- 26 provision of nutrition and fluids, even if medically administered, is a
- 27 basic human right and authorization to deny or withdraw shall be limited

- 1 to the patient, the surrogate in accordance with KRS 311.629, or the  
2 responsible party in accordance with KRS 311.631.";
- 3 2. Direct the administration of fluids if physically possible as determined  
4 by the patient's physician in accordance with reasonable medical  
5 judgment and in consultation with the patient, surrogate, or responsible  
6 party by selecting one (1) of the following:
- 7 a. Long-term intravenous fluids if indicated;
- 8 b. Intravenous fluids for a defined trial period. This option shall be  
9 followed by "Goal:....."; or
- 10 c. No intravenous fluids, provide other measures to ensure comfort;  
11 and
- 12 3. Direct the administration of nutrition if physically possible as  
13 determined by the patient's physician in accordance with reasonable  
14 medical judgment and in consultation with the patient, surrogate, or  
15 responsible party by selecting one (1) of the following:
- 16 a. Long-term feeding tube if indicated;
- 17 b. Feeding tube for a defined trial period. This option shall be  
18 followed by "Goal:....."; or
- 19 c. No feeding tube. This option shall be followed by a space for  
20 special instructions;
- 21 (e) Section E of the form shall:
- 22 1. Have the heading "Patient Preferences as a Basis for this MOST Form"  
23 and shall include the language "Basis for order must be documented in  
24 medical record";
- 25 2. Provide direction to indicate whether or not the patient has an advance  
26 medical directive such as a health care power of attorney or living will  
27 and, if so, a place for the printed name, position, and signature of the

- 1 individual certifying that the MOST is in accordance with the advance  
2 directive; and
- 3 3. Indicate whether oral or written directions were given and, if so, by  
4 which one (1) or more of the following:
- 5 a. Patient;
- 6 b. Parent or guardian if patient is a minor;
- 7 c. Surrogate appointed by the patient's advance directive;
- 8 d. The judicially appointed guardian of the patient, if the guardian has  
9 been appointed and if medical decisions are within the scope of the  
10 guardianship;
- 11 e. The attorney-in-fact named in a durable power of attorney, if the  
12 durable power of attorney specifically includes authority for health  
13 care decisions;
- 14 f. The spouse of the patient;
- 15 g. An adult child of the patient or, if the patient has more than one (1)  
16 child, the majority of the adult children who are reasonably  
17 available for consultation;
- 18 h. The parents of the patient; and
- 19 i. The nearest living relative of the patient or, if more than one (1)  
20 relative of the same relation is reasonably available for  
21 consultation, a majority of the nearest living relatives;
- 22 (f) A signature portion of the form shall include spaces for the printed name,  
23 signature, and date of signing for:
- 24 1. The patient's physician;
- 25 2. The patient, parent of minor, guardian, health care agent, surrogate,  
26 spouse, or other responsible party, with a description of the relationship  
27 to the patient and contact information, unless based solely on advance

1 directive; and

2 3. The health care professional preparing the form, with contact  
3 information;

4 (g) A section of the form shall be titled "Information for patient, surrogate, or  
5 responsible party named on this form" with the following language: "The  
6 MOST form is always voluntary and is usually for persons with advanced  
7 illness. MOST records your wishes for medical treatment in your current state  
8 of health. The provision of nutrition and fluids, even if medically  
9 administered, is a basic human right and authorization to deny or withdraw  
10 shall be limited to the patient, the surrogate in accordance with KRS 311.629,  
11 or the responsible party in accordance with KRS 311.631. Once initial  
12 medical treatment is begun and the risks and benefits of further therapy are  
13 clear, your treatment wishes may change. Your medical care and this form can  
14 be changed to reflect your new wishes at any time. However, no form can  
15 address all the medical treatment decisions that may need to be made. An  
16 advance directive, such as the Kentucky Health Care Power of Attorney, is  
17 recommended for all capable adults, regardless of their health status. An  
18 advance directive allows you to document in detail your future health care  
19 instructions or name a surrogate to speak for you if you are unable to speak for  
20 yourself, or both. If there are conflicting directions between an enforceable  
21 living will and a MOST form, the provisions of the living will shall prevail.";

22 (h) A section of the form shall be titled "Directions for Completing and  
23 Implementing Form" with these four (4) subdivisions:

24 1. The first subdivision shall be titled "Completing MOST" and shall have  
25 the following language:

26 "MOST must be reviewed, prepared, and signed by the patient's  
27 physician in personal communication with the patient, the patient's

1 surrogate, or responsible party.  
2 MOST must be reviewed and contain the original or electronic signature  
3 of the patient's physician to be valid. Be sure to document the basis in  
4 the progress notes of the medical record. Mode of communication (e.g.,  
5 in person, by telephone, etc.) should also be documented.

6 The signature of the patient, surrogate, or a responsible party is required;  
7 however, if the patient's surrogate or a responsible party is not  
8 reasonably available to sign the original form, a copy of the completed  
9 form with the signature or electronic signature of the patient's surrogate  
10 or a responsible party must be signed by the patient's physician and  
11 placed in the medical record.

12 Use of original form is required. Be sure to send the original form with  
13 the patient.

14 There is no requirement that a patient have a MOST.";

15 2. The second subdivision shall be titled "Implementing MOST" and shall  
16 have the following language: "If a health care provider or facility cannot  
17 comply with the orders due to policy or personal ethics, the provider or  
18 facility must arrange for transfer of the patient to another provider or  
19 facility.";

20 3. The third subdivision shall be titled "Reviewing MOST" and shall have  
21 the following language:

22 "This MOST must be reviewed at least annually or earlier if:

23 The patient is admitted and/or discharged from a health care facility;

24 There is a substantial change in the patient's health status; or

25 The patient's treatment preferences change.

26 If MOST is revised or becomes invalid, draw a line through Sections A-  
27 E and write "VOID" in large letters."; and

- 1           4. The fourth subdivision shall be titled "Revocation of MOST" and shall  
2           have the following language: "This MOST may be revoked by the  
3           patient, the surrogate, or the responsible party."; and
- 4           (i) A section of the form shall be titled "Review of MOST" and shall have the  
5           following columns and a number of rows as determined by the Kentucky  
6           Board of Medical Licensure:
- 7           1. "Review Date";  
8           2. "Reviewer and Location of Review";  
9           3. "MD/DO Signature (Required)";  
10          4. "Signature of Patient, Surrogate, or Responsible Party (Required)"; and  
11          5. "Outcome of Review, describing the outcome in each row by selecting  
12          one (1) of the following:
- 13           a. No Change;  
14           b. FORM VOIDED, new form completed; or  
15           c. FORM VOIDED, no new form".
- 16          (2) The Kentucky Board of Medical Licensure shall promulgate administrative  
17          regulations in accordance with KRS Chapter 13A to develop the format for a  
18          standardized medical order for scope of treatment form to be approved by the board,  
19          including spacing, size, borders, fill and location of boxes, type of fonts used and  
20          their size, and placement of boxes on the front or back of the form so as to fit on a  
21          single sheet. **The board shall create an electronically fillable version of the MOST**  
22          **form that can be accessed on the board's Web site.** The board may not alter the  
23          wording or order of wording provided in subsection (1) of this section, except to  
24          **provide translated versions of the MOST form or** add identifying data such as form  
25          number and date of promulgation or revision and instructions for completing,  
26          reviewing, and revoking the election of the form. **The board shall provide a**  
27          **translation of the MOST form in print and in an electronically fillable version**

- 1        into Spanish, and other languages as needed. The board shall consult with  
2        appropriate professional organizations to develop the format for the medical order  
3        for scope of treatment form, including:
- 4        (a) The Kentucky Association of Hospice and Palliative Care;
  - 5        (b) The Kentucky Board of Emergency Medical Services;
  - 6        (c) The Kentucky Hospital Association;
  - 7        (d) The Kentucky Association of Health Care Facilities;
  - 8        (e) LeadingAge Kentucky;
  - 9        (f) The Kentucky Right to Life Association; and
  - 10       (g) Other groups interested in end-of-life care.
- 11       (3) The medical order for scope of treatment form developed under subsection (2) of  
12       this section shall include but not be limited to:
- 13       (a) An advisory that completing the medical order for scope of treatment form is  
14                voluntary and not required for treatment;
  - 15       (b) Identification of the person who discussed and agreed to the options for  
16                medical intervention that are selected;
  - 17       (c) All necessary information necessary to comply with subsection (1) of this  
18                section;
  - 19       (d) The effective date of the form;
  - 20       (e) The expiration or review date of the form, which shall be no more than one (1)  
21                calendar year from the effective date of the form;
  - 22       (f) Indication of whether the patient has a living will directive or health care  
23                power of attorney, a copy of which shall be attached to the form if available;
  - 24       (g) An advisory that the medical order for scope of treatment may be revoked by  
25                the patient, the surrogate, or a responsible party at any time; and
  - 26       (h) A statement written in boldface type directly above the signature line for the  
27                patient that states "You are not required to sign this form to receive



1 treatment."

2 (4) A physician shall document the medical basis for completing a medical order for  
3 scope of treatment in the patient's medical record.

4 (5) The patient, the surrogate, or a responsible party shall sign the medical order for  
5 scope of treatment form; however, if it is not practicable for the patient's surrogate  
6 or a responsible party to sign the original form, the surrogate or a responsible party  
7 shall sign a copy of the completed form and return it to the health care provider  
8 completing the form. The copy of the form with the signature of the surrogate or a  
9 responsible party, whether in electronic or paper form, shall be signed by the  
10 physician and shall be placed in the patient's medical record. When the signature of  
11 the surrogate or a responsible party is on a separate copy of the form, the original  
12 form shall indicate in the appropriate signature field that the signature is attached.

13 **(6) The MOST form may be electronic or printed on any color of paper and the form**  
14 **shall be honored on any color of paper.**