

**As Introduced**

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**H. B. No. 241**

**Representative Garland**

**Cosponsors: Representatives Lundy, Sayre, Williams, B., Luckie, Hackett,  
Skindell, Okey, Newcomb, Yuko, Hagan, Boyd, Letson, Harris, Evans, Heard**

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**A B I L L**

To amend sections 2133.02, 2133.21, 2133.211, 2133.22 1  
to 2133.26, and 3795.03 and to enact sections 2  
2133.27 and 2133.30 to 2133.49 of the Revised Code 3  
to require the Director of Health to prescribe a 4  
form to document medical orders for 5  
life-sustaining treatment and to make changes to 6  
the law governing DNR identification and orders. 7  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2133.02, 2133.21, 2133.211, 2133.22, 9  
2133.23, 2133.24, 2133.25, 2133.26, and 3795.03 be amended and 10  
sections 2133.27, 2133.30, 2133.31, 2133.32, 2133.33, 2133.34, 11  
2133.35, 2133.36, 2133.37, 2133.38, 2133.39, 2133.40, 2133.41, 12  
2133.42, 2133.43, 2133.44, 2133.45, 2133.46, 2133.47, 2133.48, and 13  
2133.49 of the Revised Code be enacted to read as follows: 14

**Sec. 2133.02.** (A)(1) An adult who is of sound mind 15  
voluntarily may execute at any time a declaration governing the 16  
use or continuation, or the withholding or withdrawal, of 17  
life-sustaining treatment. The declaration shall be signed at the 18

end by the declarant or by another individual at the direction of 19  
the declarant, state the date of its execution, and either be 20  
witnessed as described in division (B)(1) of this section or be 21  
acknowledged by the declarant in accordance with division (B)(2) 22  
of this section. The declaration may include a designation by the 23  
declarant of one or more persons who are to be notified by the 24  
declarant's attending physician at any time that life-sustaining 25  
treatment would be withheld or withdrawn pursuant to the 26  
declaration. The declaration may include a specific authorization 27  
for the use or continuation or the withholding or withdrawal of 28  
CPR, but the failure to include a specific authorization for the 29  
withholding or withdrawal of CPR does not preclude the withholding 30  
or withdrawal of CPR in accordance with sections 2133.01 to 31  
2133.15 or sections 2133.21 to ~~2133.26~~ 2133.27 of the Revised 32  
Code. 33

(2) Depending upon whether the declarant intends the 34  
declaration to apply when the declarant is in a terminal 35  
condition, in a permanently unconscious state, or in either a 36  
terminal condition or a permanently unconscious state, the 37  
declarant's declaration shall use either or both of the terms 38  
"terminal condition" and "permanently unconscious state" and shall 39  
define or otherwise explain those terms in a manner that is 40  
substantially consistent with the provisions of section 2133.01 of 41  
the Revised Code. 42

(3)(a) If a declarant who has authorized the withholding or 43  
withdrawal of life-sustaining treatment intends that the 44  
declarant's attending physician withhold or withdraw nutrition or 45  
hydration when the declarant is in a permanently unconscious state 46  
and when the nutrition and hydration will not or no longer will 47  
serve to provide comfort to the declarant or alleviate the 48  
declarant's pain, then the declarant shall authorize the 49  
declarant's attending physician to withhold or withdraw nutrition 50

or hydration when the declarant is in the permanently unconscious 51  
state by doing both of the following in the declaration: 52

(i) Including a statement in capital letters or other 53  
conspicuous type, including, but not limited to, a different font, 54  
bigger type, or boldface type, that the declarant's attending 55  
physician may withhold or withdraw nutrition and hydration if the 56  
declarant is in a permanently unconscious state and if the 57  
declarant's attending physician and at least one other physician 58  
who has examined the declarant determine, to a reasonable degree 59  
of medical certainty and in accordance with reasonable medical 60  
standards, that nutrition or hydration will not or no longer will 61  
serve to provide comfort to the declarant or alleviate the 62  
declarant's pain, or checking or otherwise marking a box or line 63  
that is adjacent to a similar statement on a printed form of a 64  
declaration; 65

(ii) Placing the declarant's initials or signature underneath 66  
or adjacent to the statement, check, or other mark described in 67  
division (A)(3)(a)(i) of this section. 68

(b) Division (A)(3)(a) of this section does not apply to the 69  
extent that a declaration authorizes the withholding or withdrawal 70  
of life-sustaining treatment when a declarant is in a terminal 71  
condition. The provisions of division (E) of section 2133.12 of 72  
the Revised Code pertaining to comfort care shall apply to a 73  
declarant in a terminal condition. 74

(B)(1) If witnessed for purposes of division (A) of this 75  
section, a declaration shall be witnessed by two individuals as 76  
described in this division in whose presence the declarant, or 77  
another individual at the direction of the declarant, signed the 78  
declaration. The witnesses to a declaration shall be adults who 79  
are not related to the declarant by blood, marriage, or adoption, 80  
who are not the attending physician of the declarant, and who are 81  
not the administrator of any nursing home in which the declarant 82

is receiving care. Each witness shall subscribe the witness' 83  
signature after the signature of the declarant or other individual 84  
at the direction of the declarant and, by doing so, attest to the 85  
witness' belief that the declarant appears to be of sound mind and 86  
not under or subject to duress, fraud, or undue influence. The 87  
signatures of the declarant or other individual at the direction 88  
of the declarant under division (A) of this section and of the 89  
witnesses under this division are not required to appear on the 90  
same page of the declaration. 91

(2) If acknowledged for purposes of division (A) of this 92  
section, a declaration shall be acknowledged before a notary 93  
public, who shall make the certification described in section 94  
147.53 of the Revised Code and also shall attest that the 95  
declarant appears to be of sound mind and not under or subject to 96  
duress, fraud, or undue influence. 97

(C) An attending physician, or other health care personnel 98  
acting under the direction of an attending physician, who is 99  
furnished a copy of a declaration shall make it a part of the 100  
declarant's medical record and, when section 2133.05 of the 101  
Revised Code is applicable, also shall comply with that section. 102

(D)(1) Subject to division (D)(2) of this section, an 103  
attending physician of a declarant or a health care facility in 104  
which a declarant is confined may refuse to comply or allow 105  
compliance with the declarant's declaration on the basis of a 106  
matter of conscience or on another basis. An employee or agent of 107  
an attending physician of a declarant or of a health care facility 108  
in which a declarant is confined may refuse to comply with the 109  
declarant's declaration on the basis of a matter of conscience. 110

(2) If an attending physician of a declarant or a health care 111  
facility in which a declarant is confined is not willing or not 112  
able to comply or allow compliance with the declarant's 113  
declaration, the physician or facility promptly shall so advise 114

the declarant and comply with the provisions of section 2133.10 of 115  
the Revised Code, or, if the declaration has become operative as 116  
described in division (A) of section 2133.03 of the Revised Code, 117  
shall comply with the provisions of section 2133.10 of the Revised 118  
Code. 119

(E) As used in this section, "CPR" has the same meaning as in 120  
section 2133.21 of the Revised Code. 121

**Sec. 2133.21.** As used in this section and sections ~~2133.21~~ 122  
~~2133.211~~ to ~~2133.26~~ 2133.27 of the Revised Code, unless the 123  
context clearly requires otherwise: 124

(A) "Attending physician" means the physician to whom a 125  
person, or the family of a person, has assigned primary 126  
responsibility for the treatment or care of the person or, if the 127  
person or the person's family has not assigned that 128  
responsibility, the physician who has accepted that 129  
responsibility. 130

(B) "CPR" means cardiopulmonary resuscitation or a component 131  
of cardiopulmonary resuscitation, but it does not include clearing 132  
a person's airway for a purpose other than as a component of CPR. 133

~~(C) "Declaration," "health care facility," "life sustaining~~ 134  
~~treatment," "physician," "professional disciplinary action," and~~ 135  
~~"tort action" have the same meanings as in section 2133.01 of the~~ 136  
~~Revised Code~~ means a document executed in accordance with section 137  
2133.02 of the Revised Code that includes a specific authorization 138  
for the withholding or withdrawal of CPR. 139

~~(C)~~(D) "DNR identification" means a standardized 140  
identification card, form, necklace, or bracelet that is of 141  
uniform size and design, that has been approved by the department 142  
of health pursuant to section 2133.25 of the Revised Code, and 143  
that signifies ~~either~~ one of the following: 144

(1) That the person who is named on and possesses the card, 145  
form, necklace, or bracelet has executed a declaration ~~that~~ 146  
~~authorizes the withholding or withdrawal of CPR and~~ that has not 147  
been revoked pursuant to section 2133.04 of the Revised Code; 148

(2) That the attending physician of the person who is named 149  
on and possesses the card, form, necklace, or bracelet has issued 150  
a current do-not-resuscitate order, ~~in accordance with the~~ 151  
~~do not resuscitate protocol adopted by the department of health~~ 152  
~~pursuant to section 2133.25 of the Revised Code,~~ for that person 153  
and has documented the grounds for the order in that person's 154  
medical record-; 155

(3) That an issuing practitioner has completed a MOLST form 156  
that has not been revoked as described in section 2133.39 of the 157  
Revised Code. 158

~~(D)~~(E) "Do-not-resuscitate order" means a directive issued by 159  
a physician prior to the effective date of this amendment in 160  
accordance with the do-not-resuscitate protocol that identifies a 161  
person and specifies that CPR should not be administered to the 162  
person so identified. 163

~~(E)~~(F) "Do-not-resuscitate protocol" means the standardized 164  
method of procedure for the withholding of CPR by physicians, 165  
emergency medical service personnel, and health care facilities 166  
that ~~is~~ was adopted in the rules of the department of health 167  
pursuant to section 2133.25 of the Revised Code as that section 168  
existed prior to the effective date of this amendment. 169

~~(F)~~(G) "Emergency medical services personnel" means paid or 170  
volunteer firefighters, law enforcement officers, first 171  
responders, emergency medical technicians-basic, emergency medical 172  
technicians-intermediate, emergency medical technicians-paramedic, 173  
medical technicians, or other emergency services personnel acting 174  
within the ordinary course of their profession. 175

~~(G) "CPR" means cardiopulmonary resuscitation or a component of cardiopulmonary resuscitation, but it does not include clearing a person's airway for a purpose other than as a component of CPR.~~

(H) "Health care facility," "life-sustaining treatment," "physician," "professional disciplinary action," and "tort action" have the same meanings as in section 2133.01 of the Revised Code.

(I) "Issuing practitioner" has the same meaning as in section 2133.30 of the Revised Code.

(J) "MOLST form" means a form completed pursuant to division (A) of section 2133.33 of the Revised Code that includes a specific authorization for the withholding or withdrawal of CPR.

**Sec. 2133.211.** A person who holds a certificate of authority to practice as a certified nurse practitioner or clinical nurse specialist issued under section 4723.42 of the Revised Code may take any action that may be taken by an attending physician under sections ~~2133.21~~ 2133.22 to ~~2133.26~~ 2133.27 of the Revised Code and has the immunity provided by section 2133.22 of the Revised Code if the action is taken pursuant to a standard care arrangement with a collaborating physician.

**Sec. 2133.22.** (A)(1)(a) None of the ~~following~~ persons listed in division (A)(1)(b) of this section are subject to criminal prosecution, to liability in damages in a tort or other civil action for injury, death, or loss to person or property, or to professional disciplinary action arising out of or relating to the withholding or withdrawal of CPR from a ~~person after DNR identification is discovered in the person's possession and reasonable efforts have been made to determine that the person in possession of the DNR identification is the person named on the DNR identification~~ any of the following:

<del>(a)(i)</del> <u>An individual who has executed a declaration;</u>	206
<u>(ii) An individual for whom a do-not-resuscitate order has been issued;</u>	207 208
<u>(iii) An individual for whom a MOLST form has been completed;</u>	209
<u>(iv) An individual who is in possession of DNR identification if reasonable efforts have been made to determine that the individual is the individual named on the DNR identification.</u>	210 211 212
<u>(b) Division (A)(1)(a) of this section applies only to the following:</u>	213 214
<u>(i) A physician who causes the withholding or withdrawal of CPR from <del>the person possessing the DNR identification an</del> individual described in division (A)(1)(a) of this section;</u>	215 216 217
<del>(b)(ii)</del> <u>A person who participates under the direction of or with the authorization of a physician in the withholding or withdrawal of CPR from <del>the person possessing the DNR identification an</del> individual described in division (A)(1)(a) of this section;</u>	218 219 220 221 222
<del>(e)(iii)</del> <u>Any emergency medical services personnel who cause or participate in the withholding or withdrawal of CPR from <del>the person possessing the DNR identification an</del> individual described in division (A)(1)(a) of this section.</u>	223 224 225 226
<u>(2)(a) None of the <del>following persons listed in division (A)(2)(b) of this section</del> are subject to criminal prosecution, to liability in damages in a tort or other civil action for injury, death, or loss to person or property, or to professional disciplinary action arising out of or relating to the withholding or withdrawal of CPR from <del>a person in a health care facility after DNR identification is discovered in the person's possession and reasonable efforts have been made to determine that the person in possession of the DNR identification is the person named on the</del></u>	227 228 229 230 231 232 233 234 235

<del>DNR identification or a do not resuscitate order is issued for the</del>	236
<del>person any of the following who is in a health care facility:</del>	237
	238
<del>(a)(i) An individual who has executed a declaration;</del>	239
<del>(ii) An individual for whom a do-not-resuscitate order has</del>	240
<del>been issued;</del>	241
<del>(iii) An individual for whom a MOLST form has been completed;</del>	242
<del>(iv) An individual who is in possession of DNR identification</del>	243
<del>if reasonable efforts have been made to determine that the</del>	244
<del>individual is the individual named on the DNR identification.</del>	245
<del>(b) Division (A)(2)(a) of this section applies only to the</del>	246
<del>following:</del>	247
<del>(i) The health care facility or the administrator of the</del>	248
<del>health care facility;</del>	249
<del>(b)(ii) A physician who causes the withholding or withdrawal</del>	250
<del>of CPR from the person possessing the DNR identification or for</del>	251
<del>whom the do not resuscitate order has been issued an individual</del>	252
<del>described in division (A)(2)(a) of this section;</del>	253
<del>(c)(iii) Any person who works for the health care facility as</del>	254
<del>an employee, contractor, or volunteer and who participates under</del>	255
<del>the direction of or with the authorization of a physician in the</del>	256
<del>withholding or withdrawal of CPR from the person possessing the</del>	257
<del>DNR identification;</del>	258
<del>(d) Any person who works for the health care facility as an</del>	259
<del>employee, contractor, or volunteer and who participates under the</del>	260
<del>direction of or with the authorization of a physician in the</del>	261
<del>withholding or withdrawal of CPR from the person for whom the</del>	262
<del>do not resuscitate order has been issued an individual described</del>	263
<del>in division (A)(2)(a) of this section;</del>	264
<del>(iv) Any emergency medical services personnel who cause or</del>	265

participate in the withholding or withdrawal of CPR from an 266  
individual described in division (A)(2)(a) of this section. 267

(3) If, after ~~DNR identification is discovered in the~~ 268  
~~possession of a person~~ it is determined that a person is an 269  
individual described in division (A)(1)(a) or (2)(a) of this 270  
section, the person makes an oral or written request to receive 271  
CPR, any person who provides CPR pursuant to the request, any 272  
health care facility in which CPR is provided, and the 273  
administrator of any health care facility in which CPR is provided 274  
are not subject to criminal prosecution as a result of the 275  
provision of the CPR, are not liable in damages in a tort or other 276  
civil action for injury, death, or loss to person or property that 277  
arises out of or is related to the provision of the CPR, and are 278  
not subject to professional disciplinary action as a result of the 279  
provision of the CPR. 280

(B) Divisions (A)(1), ~~(A)~~ and (2), ~~and (C)~~ of this section do 281  
not apply when CPR is withheld or withdrawn from ~~a person who~~ 282  
~~possesses DNR identification or for whom a do not resuscitate~~ 283  
~~order has been issued~~ an individual described in division 284  
(A)(1)(a) or (2)(a) of this section unless the withholding or 285  
withdrawal is in accordance with the ~~do not resuscitate protocol~~ 286  
instructions regarding the withholding or withdrawal of CPR in the 287  
individual's declaration, a do-not-resuscitate order that names 288  
the individual, the individual's MOLST form, or in instructions in 289  
any of the foregoing that is the basis of the individual's DNR 290  
identification. 291

(C) ~~Any emergency medical services personnel who comply with~~ 292  
~~a do not resuscitate order issued by a physician and any~~ 293  
~~individuals who work for a health care facility as employees,~~ 294  
~~contractors, or volunteers and who comply with a~~ 295  
~~do not resuscitate order issued by a physician are not subject to~~ 296  
~~liability in damages in a civil action for injury, death, or loss~~ 297

~~to person or property that arises out of or is related to 298  
compliance with the order, are not subject to criminal prosecution 299  
as a result of compliance with the order, and are not subject to 300  
professional disciplinary action as a result of compliance with 301  
the order. 302~~

In an emergency situation, emergency medical services 303  
personnel and emergency department personnel are not required to 304  
search a person to determine if the person ~~possesses DNR 305  
identification is an individual described in division (A)(1)(a) or 306  
(2)(a) of this section.~~ If a person ~~possesses DNR identification 307  
is an individual described in division (A)(1)(a) or (2)(a) of this 308  
section,~~ if emergency medical services personnel or emergency 309  
department personnel provide CPR to the person in an emergency 310  
situation, and if, at that time, the personnel do not know and do 311  
not have reasonable cause to believe that the person ~~possesses DNR 312  
identification is an individual described in division (A)(1)(a) or 313  
(2)(a) of this section,~~ the emergency medical services personnel 314  
and emergency department personnel are not subject to criminal 315  
prosecution as a result of the provision of the CPR, are not 316  
liable in damages in a tort or other civil action for injury, 317  
death, or loss to person or property that arises out of or is 318  
related to the provision of the CPR, and are not subject to 319  
professional disciplinary action as a result of the provision of 320  
the CPR. 321

(D) Nothing in sections 2133.21 to ~~2133.26~~ 2133.27 of the 322  
Revised Code ~~or the do not resuscitate protocol~~ grants immunity to 323  
a physician for issuing a do-not-resuscitate order that is 324  
contrary to reasonable medical standards or that the physician 325  
knows or has reason to know is contrary to the wishes of the 326  
patient or of a person who is lawfully authorized to make informed 327  
medical decisions on the patient's behalf. 328

Sec. 2133.23. (A) If emergency medical services personnel, 329  
other than physicians, are presented with DNR identification 330  
possessed by a person or are presented with a ~~written~~ 331  
~~do not resuscitate order for a person or if a physician directly~~ 332  
~~issues to emergency medical services personnel, other than~~ 333  
~~physicians, an oral do not resuscitate order for a person a~~ 334  
written do-not-resuscitate order that has been issued for the 335  
person or a MOLST form that has been completed for the person, the 336  
emergency medical services personnel shall comply with the 337  
~~do not resuscitate protocol for the person. If an oral~~ 338  
~~do not resuscitate order is issued by a physician who is not~~ 339  
~~present at the scene, the emergency medical services personnel~~ 340  
~~shall verify the physician's identity instructions regarding the~~ 341  
withholding or withdrawal of CPR in the relevant document or as 342  
signified by the DNR identification. 343

(B) If a person possesses DNR identification and if the 344  
person's attending physician or the health care facility in which 345  
the person is located is unwilling or unable to comply with the 346  
~~do not resuscitate protocol for the person instructions regarding~~ 347  
the withholding or withdrawal of CPR in the person's declaration, 348  
the written do-not-resuscitate order that has been issued for the 349  
person, or the MOLST form that has been completed for the person, 350  
any of which is the basis of the person's DNR identification, the 351  
attending physician or the health care facility shall not prevent 352  
or attempt to prevent, or unreasonably delay or attempt to delay, 353  
the transfer of the person to a different physician who will 354  
follow the ~~protocol~~ instructions or to a different health care 355  
facility in which the ~~protocol~~ instructions will be followed. 356

(C) If a person ~~who~~ being transferred from one health care 358  
facility to another possesses DNR identification ~~or for whom a~~ 359  
current, has executed a declaration, is the subject of a written 360

do-not-resuscitate order that has been issued ~~is being transferred~~ 361  
~~from one health care facility to another, before or at the time of~~ 362  
~~the transfer, or is the subject of a MOLST form that has been~~ 363  
completed, the transferring health care facility shall notify the 364  
receiving health care facility and the persons transporting the 365  
person of the existence of the DNR identification ~~or the order,~~ 366  
declaration, do-not-resuscitate order, or MOLST form. The notice 367  
shall be given before or at the time of the transfer. If a current 368  
~~do not resuscitate order was issued orally, it shall be reduced to~~ 369  
~~writing before the time of the transfer.~~ The DNR identification ~~or~~ 370  
~~the order, declaration, do-not-resuscitate order, or MOLST form~~ 371  
shall accompany the person to the receiving health care facility 372  
and shall, subject to section 2133.41 of the Revised Code, remain 373  
in effect unless ~~it is revoked or unless, in the case of a~~ 374  
~~do not resuscitate order, the order no longer is current~~ any of 375  
the following circumstances apply: 376

(1) In the case of a DNR identification, it has been revoked 377  
in accordance with rules adopted by the department of health 378  
pursuant to section 2133.25 of the Revised Code. 379

(2) In the case of a declaration, it has been revoked as 380  
described in section 2133.04 of the Revised Code. 381

(3) In the case of a written do-not-resuscitate order, it is 382  
no longer current. 383

(4) In the case of a MOLST form, it has been revoked as 384  
described in section 2133.39 of the Revised Code. 385

**Sec. 2133.24.** (A) The death of a person resulting from the 386  
withholding or withdrawal of CPR for the person pursuant to ~~the~~ 387  
~~do not resuscitate protocol~~ instructions regarding the withholding 388  
or withdrawal of CPR in a declaration executed by the person, a 389  
written do-not-resuscitate order that has been issued for the 390  
person, a MOLST form that has been completed for the person or 391

pursuant to instructions in any of the foregoing that is the basis 392  
of the person's DNR identification and in the circumstances 393  
described in section 2133.22 of the Revised Code or in accordance 394  
with division (A) of section 2133.23 of the Revised Code does not 395  
constitute for any purpose a suicide, aggravated murder, murder, 396  
or any other homicide. 397

(B)(1) If a person has executed a declaration, a written 398  
do-not-resuscitate order has been issued for the person, a MOLST 399  
form has been completed for the person, or the person possesses 400  
DNR identification ~~or if a current do not resuscitate order has~~ 401  
~~been issued for a person,~~ the existence of the declaration, 402  
written do-not-resuscitate order, or MOLST form, or the possession 403  
~~or order~~ of the DNR identification, shall not do either of the 404  
following: 405

(a) Affect in any manner the sale, procurement, issuance, or 406  
renewal of a policy of life insurance or annuity, notwithstanding 407  
any term of a policy or annuity to the contrary; 408

(b) Be deemed to modify in any manner or invalidate the terms 409  
of any policy of life insurance or annuity that is in effect on 410  
the effective date of this section. 411

(2) Notwithstanding any term of a policy of life insurance or 412  
annuity to the contrary, the withholding or withdrawal of CPR from 413  
a person who is insured or covered under the policy or annuity and 414  
who possesses DNR identification ~~or for whom a current~~ 415  
~~do not resuscitate order has been issued, in accordance with~~ 416  
~~sections 2133.21 to 2133.26 of the Revised Code, who has executed~~ 417  
a declaration, for whom a written do-not-resuscitate order has 418  
been issued, or for whom a MOLST form has been completed shall not 419  
impair or invalidate any policy of life insurance or annuity. 420

(3) Notwithstanding any term of a policy or plan to the 421  
422

contrary, neither of the following shall impair or invalidate any 423  
policy of health insurance or other health care benefit plan: 424

(a) The withholding or withdrawal in accordance with sections 425  
2133.21 to ~~2133.26~~ 2133.27 of the Revised Code of CPR from a 426  
person who is insured or covered under the policy or plan and who 427  
possesses DNR identification ~~or for whom a current~~ 428  
~~do-not-resuscitate order has been issued, who has executed a~~ 429  
declaration, for whom a written do-not-resuscitate order has been 430  
issued, or for whom a MOLST form has been completed; 431

(b) The provision in accordance with sections 2133.21 to 432  
~~2133.26~~ 2133.27 of the Revised Code of CPR to a person of the 433  
nature described in division (B)(3)(a) of this section. 434

(4) No physician, health care facility, other health care 435  
provider, person authorized to engage in the business of insurance 436  
in this state under Title XXXIX of the Revised Code, health 437  
insuring corporation, other health care benefit plan, legal entity 438  
that is self-insured and provides benefits to its employees or 439  
members, or other person shall require an individual to possess 440  
DNR identification, execute a declaration, or have a written 441  
do-not-resuscitate order issued, or have a MOLST form completed, 442  
or shall require an individual to revoke or refrain from 443  
possessing DNR identification, as a condition of being insured or 444  
of receiving health care benefits or services. 445

(C)(1) Sections 2133.21 to ~~2133.26~~ 2133.27 of the Revised 446  
Code do not create any presumption concerning the intent of an 447  
individual who does not possess DNR identification with respect to 448  
the use, withholding, or withdrawal of CPR. 449

(2) Sections 2133.21 to ~~2133.26~~ 2133.27 of the Revised Code 450  
do not affect the right of a person to make informed decisions 451  
regarding the use, withholding, or withdrawal of CPR for the 452  
person as long as the person is able to make those decisions. 453

(3) Sections 2133.21 to ~~2133.26~~ 2133.27 of the Revised Code 454  
are in addition to and independent of, and do not limit, impair, 455  
or supersede, any right or responsibility that a person has to 456  
effect the withholding or withdrawal of life-sustaining treatment 457  
to another pursuant to sections 2133.01 to 2133.15 or sections 458  
2133.30 to 2133.47 of the Revised Code or in any other lawful 459  
manner. 460

(D) Nothing in sections 2133.21 to ~~2133.26~~ 2133.27 of the 461  
Revised Code condones, authorizes, or approves of mercy killing, 462  
assisted suicide, or euthanasia. 463

**Sec. 2133.25.** (A) ~~The department of health, by rule adopted~~ 464  
~~pursuant to Chapter 119. of the Revised Code, shall adopt a~~ 465  
~~standardized method of procedure for the withholding of CPR by~~ 466  
~~physicians, emergency medical services personnel, and health care~~ 467  
~~facilities in accordance with sections 2133.21 to 2133.26 of the~~ 468  
~~Revised Code. The standardized method shall specify criteria for~~ 469  
~~determining when a do not resuscitate order issued by a physician~~ 470  
~~is current. The standardized method so adopted shall be the~~ 471  
~~"do not resuscitate protocol" for purposes of sections 2133.21 to~~ 472  
~~2133.26 of the Revised Code. The department also of health, by~~ 473  
~~rule adopted pursuant to Chapter 119. of the Revised Code, shall~~ 474  
approve one or more standard forms of DNR identification to be 475  
used throughout this state and shall specify one or more 476  
procedures for revoking the forms of identification. 477

(B) ~~The department of health shall adopt rules in accordance~~ 478  
~~with Chapter 119. of the Revised Code for the administration of~~ 479  
~~sections 2133.21 to 2133.26 of the Revised Code~~ The 480  
do-not-resuscitate protocol adopted by the department of health in 481  
rules adopted pursuant to this section as this section existed 482  
prior to the effective date of this amendment and the standard 483  
forms of DNR identification approved by the department pursuant to 484

this section as this section existed prior to the effective date 485  
of this amendment are effective only for do-not-resuscitate orders 486  
issued before the effective date of this amendment. The criteria 487  
for determining when a do-not-resuscitate order is current apply 488  
only to orders issued before that date. 489

~~(C) The department of health shall appoint an advisory~~ 490  
~~committee to advise the department in the development of rules~~ 491  
~~under this section. The advisory committee shall include, but~~ 492  
~~shall not be limited to, representatives of each of the following~~ 493  
~~organizations:~~ 494

~~(1) The association for hospitals and health systems (OHA);~~ 495

~~(2) The Ohio state medical association;~~ 496

~~(3) The Ohio chapter of the American college of emergency~~ 497  
~~physicians;~~ 498

~~(4) The Ohio hospice organization;~~ 499

~~(5) The Ohio council for home care;~~ 500

~~(6) The Ohio health care association;~~ 501

~~(7) The Ohio ambulance association;~~ 502

~~(8) The Ohio medical directors association;~~ 503

~~(9) The Ohio association of emergency medical services;~~ 504

~~(10) The bioethics network of Ohio;~~ 505

~~(11) The Ohio nurses association;~~ 506

~~(12) The Ohio academy of nursing homes;~~ 507

~~(13) The Ohio association of professional firefighters;~~ 508

~~(14) The department of mental retardation and developmental~~ 509  
~~disabilities;~~ 510

~~(15) The Ohio osteopathic association;~~ 511

~~(16) The association of Ohio philanthropic homes, housing and~~ 512

<del>services for the aging;</del>	513
<del>(17) The catholic conference of Ohio;</del>	514
<del>(18) The department of aging;</del>	515
<del>(19) The department of mental health;</del>	516
<del>(20) The Ohio private residential association;</del>	517
<del>(21) The northern Ohio fire fighters association.</del>	518
<b>Sec. 2133.26.</b> (A)(1) No physician shall purposely prevent or attempt to prevent, or delay or unreasonably attempt to delay, the transfer of a patient in violation of division (B) of section 2133.23 of the Revised Code.	519 520 521 522
(2) No person shall purposely conceal, cancel, deface, or obliterate the DNR identification of another person without the consent of the other person.	523 524 525
(3) No person shall purposely falsify or forge a revocation of a declaration <u>or MOLST form</u> that is the basis of the DNR identification of another person or purposely falsify or forge an order of a physician <u>or an instruction in a MOLST form</u> that purports to supersede a do-not-resuscitate order issued, <u>or an instruction in a MOLST form completed,</u> for another person.	526 527 528 529 530 531
(4) No person shall purposely falsify or forge the DNR identification of another person with the intent to cause the use, withholding, or withdrawal of CPR for the other person.	532 533 534
(5) <del>No person who has personal knowledge that another person has revoked a declaration that is the basis of the other person's DNR identification or personal knowledge that a physician has issued an order that supersedes a do not resuscitate order that the physician issued for another person</del> <u>None of the following</u> shall purposely conceal or withhold <del>that</del> personal knowledge with the intent to cause the use, withholding, or withdrawal of CPR for	535 536 537 538 539 540 541

the other person: 542

(a) A person who has personal knowledge that another person 543  
has revoked a declaration that is the basis of the other person's 544  
DNR identification; 545

(b) A person who has personal knowledge that a physician has 546  
issued an order that supersedes a do-not-resuscitate order that 547  
the physician issued for another person; 548

(c) A person who has personal knowledge that another person 549  
has revoked a MOLST form or superseded an instruction in a MOLST 550  
form that is the basis of the other person's DNR identification. 551

(B)(1) Whoever violates division (A)(1) or (5) of this 552  
section is guilty of a misdemeanor of the third degree. 553

(2) Whoever violates division (A)(2), (3), or (4) of this 554  
section is guilty of a misdemeanor of the first degree. 555

Sec. 2133.27. Nothing in sections 2133.21 to 2133.26 of the 556  
Revised Code prohibits a physician from issuing a directive on or 557  
after the effective date of this section that identifies a person 558  
and specifies that CPR should not be administered to the person so 559  
identified but any such directive shall be issued in accordance 560  
with reasonable and prevailing standards of care. 561

Sec. 2133.30. As used in this section and sections 2133.31 to 562  
2133.47 of the Revised Code: 563

(A) "Advanced practice nurse" means a registered nurse who 564  
holds a valid certificate that authorizes the practice of nursing 565  
as a certified nurse practitioner or a clinical nurse specialist 566  
in accordance with section 4723.43 of the Revised Code. 567

(B) "Attending physician" means the physician to whom a 568  
patient or patient's family has assigned primary responsibility 569  
for the medical treatment or care of the patient or, if the 570

responsibility has not been assigned, the physician who has 571  
accepted that responsibility. 572

(C) "Comfort care" means any of the following: 573

(1) Nutrition when administered to diminish pain or 574  
discomfort, but not to postpone death; 575

(2) Hydration when administered to diminish pain or 576  
discomfort, but not to postpone death; 577

(3) Any other medical or nursing procedure, treatment, 578  
intervention, or other measure that is taken to diminish pain or 579  
discomfort, but not to postpone death. 580

(D) "CPR" has the same meaning as in section 2133.21 of the 581  
Revised Code. 582

(E) "Declaration" means a document executed in accordance 583  
with section 2133.02 of the Revised Code. 584

(F) "DNR identification" and "do-not-resuscitate order" have 585  
the same meanings as in section 2133.21 of the Revised Code. 586

(G) "Durable power of attorney for health care" means a 587  
document created pursuant to sections 1337.11 to 1337.17 of the 588  
Revised Code. 589

(H) "Emergency medical services worker" means a paid or 590  
volunteer firefighter, law enforcement officer, first responder, 591  
emergency medical technician-basic, emergency medical 592  
technician-intermediate, emergency medical technician-paramedic, 593  
medical technician, or other emergency services worker acting 594  
within the ordinary course of the emergency services profession. 595

(I) "Form preparer" means the issuing practitioner who 596  
completes a medical orders for life-sustaining treatment form or 597  
the individual who completes the form pursuant to the 598  
practitioner's delegation. 599

(J) "Health care facility" has the same meaning as in section 600

1337.11 of the Revised Code. 601

(K) "Issuing practitioner" means a physician, physician  
assistant, or advanced practice nurse who issues medical orders  
for life-sustaining treatment for a patient by signing as the  
issuing practitioner the medical orders for life-sustaining  
treatment form for the patient. 602  
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(L) "Life-sustaining treatment" means any medical procedure,  
treatment, intervention, or other measure that, when administered  
to a patient, is intended to serve principally to prolong the  
process of dying. 607  
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(M) "Medical orders for life-sustaining treatment" means  
instructions, issued by a physician, physician assistant, or  
advanced practice nurse, regarding how a patient should be treated  
with respect to hospitalization, administration or withdrawal of  
life-sustaining treatment and comfort care, administration of CPR,  
and other treatment the director of health has specified in rules  
adopted under section 2133.31 of the Revised Code. 611  
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(N) "Medical orders for life-sustaining treatment form,"  
"MOLST form," or "form" means the form prescribed by the director  
of health pursuant to rules adopted under section 2133.31 of the  
Revised Code that when completed documents an issuing  
practitioner's medical orders for life-sustaining treatment. 618  
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(O) "Nutrition" means sustenance that is artificially or  
technologically administered. 623  
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(P) "Physician" means an individual authorized under Chapter  
4731. of the Revised Code to practice medicine and surgery or  
osteopathic medicine and surgery. 625  
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(O) "Physician assistant" means an individual who holds a  
valid certificate to practice as a physician assistant issued  
under Chapter 4730. of the Revised Code. 628  
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Sec. 2133.31. (A) Subject to division (D) of this section, 631  
the director of health shall adopt rules in accordance with 632  
Chapter 119. of the Revised Code to do all of the following: 633

(1) Specify the treatment, in addition to hospitalization, 634  
administration or withdrawal of life-sustaining treatment and 635  
comfort care, and administration of CPR, that may be included in 636  
instructions that constitute medical orders for life-sustaining 637  
treatment under section 2133.30 of the Revised Code; 638

(2) Subject to divisions (B) and (C) of this section, 639  
prescribe a medical orders for life-sustaining treatment (MOLST) 640  
form; 641

(3) Specify procedures for a MOLST form to be amended or 642  
revoked; 643

(4) Specify what constitutes full treatment relative to 644  
treatment covered by each section of a MOLST form, for purposes of 645  
section 2133.42 of the Revised Code; 646

(5) Specify the requirements an individual must meet to be 647  
authorized to complete a MOLST form when this responsibility is 648  
delegated by an issuing practitioner; 649

(6) Specify the extent to which MOLST forms, physician orders 650  
for life-sustaining treatment forms, or physician orders for scope 651  
of treatment forms executed under the laws or regulations of other 652  
states are valid for purposes of sections 2133.31 to 2133.48 of 653  
the Revised Code; 654

(7) Specify the individual or class of individuals who are 655  
authorized to sign and date a MOLST form if all of the individuals 656  
or classes of individuals in divisions (B)(2)(a) to (f) of section 657  
2133.34 of the Revised Code are incapacitated, are not willing to 658  
participate, or are not available within a reasonable period of 659  
time to participate in the completion of a MOLST form; 660

(8) Address any other matters necessary or appropriate to implement or clarify sections 2133.31 to 2133.48 of the Revised Code. 661  
662  
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(B) The rules the director adopts under division (A)(2) of this section shall, at minimum, address all of the following: 664  
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(1) The color of the MOLST form if it is on paper; 666

(2) The logo that identifies a form, whether in paper or electronic format, as an official MOLST form; 667  
668

(3) The inclusion of a space designated for the patient's name; 669  
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(4) The inclusion of spaces designated for the names, telephone numbers, signatures, and dates of signature of all of the following: 671  
672  
673

(a) The issuing practitioner; 674

(b) The form preparer; 675

(c) The patient, the patient's attorney in fact under the patient's durable power of attorney for health care, the individual or class of individuals specified in division (B)(2) of section 2133.34 of the Revised Code who participate in the form's completion, or the individual authorized pursuant to division (D) of section 2133.35 of the Revised Code to complete a new form; 676  
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(d) The parent, guardian, or custodian of the patient, to be used only if the patient is under eighteen years of age. 683  
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(5) The inclusion of boxes for the form preparer to indicate whether a physician or advanced practice nurse has issued a do-not-resuscitate order for the patient and whether the patient has executed a declaration or a durable power of attorney for health care. 685  
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(6) The inclusion of boxes corresponding to a range of 690

preferences the patient, the patient's parent, guardian, or legal 691  
custodian, or any other individual or class of individuals 692  
described in division (B)(4)(c) of this section who participate in 693  
a form's completion can select regarding various medical 694  
treatments and when such treatments should be administered, 695  
including, but not limited to, CPR, antibiotics, artificially or 696  
technologically administered nutrition and hydration, and other 697  
medical interventions and the inclusion of spaces next to the 698  
boxes for the names of the patient, individual, or individuals who 699  
make the selections; 700

(7) The inclusion of a box for the form preparer to indicate 701  
whether the patient, the patient's parent, guardian, or legal 702  
custodian, or the other individual or class of individuals 703  
described in division (B)(4)(c) of this section who participate in 704  
the form's completion authorize the temporary administration of 705  
medical treatments that may be contrary to the selections made 706  
under division (B)(6) of this section if the patient has an 707  
advanced chronic progressive illness and the medical treatment 708  
would be administered for a different injury or illness. 709

(8) The inclusion of a space where the form preparer can 710  
indicate the name and telephone number of an individual the 711  
patient has authorized pursuant to division (D) of section 2133.35 712  
of the Revised Code to do both of the following: 713

(a) Make all medical decisions on the patient's behalf, 714  
including those regarding the administration of CPR and other 715  
life-sustaining treatment; 716

(b) Revoke the form at any time in accordance with the 717  
procedure prescribed in rules adopted under section 2133.31 of the 718  
Revised Code and complete a new form on the patient's behalf. 719

(9) The inclusion of a space for the form preparer to list 720  
the name and contact information for the patient's next of kin if 721

the patient does not have a legally effective durable power of attorney for health care. 722  
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(10) The inclusion of a space for the form preparer to indicate the date that the form was completed and signed in accordance with sections 2133.34 and 2133.35 of the Revised Code; 724  
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(11) The inclusion of spaces designated for the names of individuals who review the form after it is completed, the dates on which reviews are completed, and the reviewer to indicate the review's outcome; 727  
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(12) The inclusion of the following advisory statements, in boldface type: 731  
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(a) "There is no requirement that a patient, a patient's parent, guardian, or legal custodian, or a patient's representative execute a MOLST form. You are not required to sign this form for the patient to receive treatment." 733  
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This statement shall appear in the space immediately above the space designated for the signature of the patient, the patient's attorney in fact under the patient's durable power of attorney for health care, or any of the other individuals or class of individuals described in division (B)(4)(c) of this section who participate in a form's completion. 737  
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(b) "The instructions in this form may supersede an inconsistent instruction in a declaration (living will), durable power of attorney for health care, general consent to treatment form, or a DNR order as described in section 2133.41 of the Ohio Revised Code." 743  
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(c) "This form may be revoked in accordance with section 2133.39 of the Ohio Revised Code." 748  
749

(C) When prescribing a medical orders for life-sustaining treatment form pursuant to division (A)(2) of this section, the 750  
751

director shall consider the design and content of forms used in 752  
other states to document medical or physician orders for 753  
life-sustaining treatment. 754

(D) The director shall adopt the initial rules required by 755  
this section not later than twelve months after the effective date 756  
of this section. In adopting the rules, the director shall 757  
consider the physician orders for life-sustaining treatment 758  
(POLST) paradigm program requirements established by the national 759  
POLST paradigm initiative task force. 760

Sec. 2133.32. The MOLST form prescribed in rules adopted 761  
under section 2133.31 of the Revised Code shall be made available 762  
on the department of health's web site in a format that can be 763  
downloaded free of charge and reproduced. 764

Sec. 2133.33. (A) Except as provided in division (C) of this 765  
section, a physician, physician assistant, or advanced practice 766  
nurse may at any time issue medical orders for life-sustaining 767  
treatment for a patient by completing a MOLST form. Once completed 768  
and signed in accordance with sections 2133.34 and 2133.35 of the 769  
Revised Code, the MOLST form is valid and, except as provided in 770  
division (B) of this section, the instructions in it become 771  
operative and govern how the patient who is the subject of the 772  
form is to be treated with respect to hospitalization, 773  
administration or withdrawal of life-sustaining treatment and 774  
comfort care, administration of CPR, and other treatment the 775  
director of health has specified in rules adopted under section 776  
2133.31 of the Revised Code. 777

(B) The instructions in a MOLST form are not operative and do 778  
not govern how a patient is to be treated when the instructions 779  
are superseded as described in section 2133.41 or 2133.43 of the 780  
Revised Code or the form is revoked as described in section 781

2133.39 of the Revised Code. 782

(C) A physician, physician assistant, or advanced practice nurse shall not have a MOLST form completed for a patient if, subject to division (D) of this section, any of the following makes known to the physician, physician assistant, or advanced practice nurse that completion of a MOLST form is not desired: 783  
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(1) If the patient is at least eighteen years of age and not incapacitated, the patient; 788  
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(2) If the patient is not at least eighteen years of age, the patient's parent, guardian, or legal custodian; 790  
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(3) If the patient is at least eighteen years of age, incapacitated, has a legally effective durable power of attorney for health care, and the circumstances in division (E) of this section do not apply, the patient's attorney in fact under the durable power of attorney for health care; 792  
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(4) If the patient is at least eighteen years of age, incapacitated, does not have a legally effective durable power of attorney for health care, and the circumstances in division (E) of this section do not apply, the individual or class of individuals determined according to the order of priority in division (B)(2) of section 2133.34 of the Revised Code. 797  
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(D) Any disagreement within a class of individuals determined according to the order of priority in division (B)(2) of section 2133.34 of the Revised Code as to whether a MOLST form should be completed shall be resolved in accordance with section 2133.36 of the Revised Code. 803  
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(E) If the patient, pursuant to division (D) of section 2133.35 of the Revised Code, authorized another individual to make all medical decisions and to revoke a MOLST form on the patient's behalf, that individual may make known to the physician, physician assistant, or advanced practice nurse that completion of a new 808  
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MOLST form is not desired. 813

Sec. 2133.34. (A) A MOLST form is valid only if all of the 814  
following participate in completion of the form: 815

(1) The issuing practitioner, who shall sign and date the 816  
form in the space designated for the practitioner's signature and 817  
who may complete the form or delegate the responsibility of the 818  
form's completion to an individual who meets the requirements 819  
established in rules adopted under section 2133.31 of the Revised 820  
Code; 821

(2) If the issuing practitioner is not the form preparer, the 822  
form preparer, who shall sign and date the form in the space 823  
designated for the form preparer's signature; 824

(3) Except as provided in division (B) of this section or 825  
when the patient has, pursuant to division (D) of section 2133.35 826  
of the Revised Code, authorized another individual to make all 827  
medical decisions and to revoke a MOLST form and complete a new 828  
form on the patient's behalf, the patient, who shall sign and date 829  
the form in the space designated for the patient's signature. 830

(B)(1) If the patient is at least eighteen years of age, 831  
incapacitated, has a legally effective durable power of attorney 832  
for health care, and is not already the subject of a valid MOLST 833  
form, the patient's attorney in fact under the patient's durable 834  
power of attorney for health care shall sign and date the form in 835  
the space designated for such signature and indicate the person's 836  
status as the patient's attorney in fact. 837  
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(2) If the patient is at least eighteen years of age, 839  
incapacitated, does not have a legally effective durable power of 840  
attorney for health care, and is not the subject of a valid MOLST 841  
form, the individual or class of individuals determined in the 842

following order of priority and subject to divisions (D) and (E) 843  
of this section and section 2133.36 of the Revised Code shall sign 844  
and date the form in the space designated for such signature or 845  
signatures and indicate the relationship to the patient: 846

(a) The patient's guardian; 847

(b) The patient's spouse; 848

(c) An adult child of the patient or, if there is more than 849  
one adult child, all of the patient's adult children; 850

(d) The patient's parents; 851

(e) An adult sibling of the patient or, if there is more than 852  
one adult sibling, all of the adult siblings; 853

(f) The adult not described in divisions (B)(2)(a) to (e) of 854  
this section who is most closely related to the patient by blood 855  
or adoption; 856

(g) The individual or class of individuals specified by the 857  
director of health in rules adopted under section 2133.31 of the 858  
Revised Code. 859

(3) If the patient is under eighteen years of age, the 860  
parent, guardian, or legal custodian of the patient shall sign and 861  
date the form in the space designated for such signature and 862  
indicate the relationship to the patient. 863

(C) Division (B)(2)(a) of this section shall not be construed 864  
as permitting or requiring the appointment of a guardian for the 865  
patient. 866

(D) If an appropriate individual entitled to participate 867  
under (B)(2) of this section in a MOLST form's completion is not 868  
available within a reasonable period of time to participate in the 869  
form's completion, is incapacitated, or declines to participate, 870  
the next priority individual or class of individuals specified in 871  
that division is authorized to participate. 872

(E) If at least one individual in a class of individuals 873  
entitled to participate under division (B)(2) of this section in a 874  
MOLST form's completion is incapacitated, is not willing to 875  
participate, or is not available within a reasonable period of 876  
time, participation shall be limited to the individual or 877  
individuals in the class who are not incapacitated and are willing 878  
to participate and available within a reasonable period of time. 879

**Sec. 2133.35.** (A)(1) When completing a MOLST form, the form 880  
preparer shall, except as provided in division (A)(2) of this 881  
section, discuss the instructions in the form with one of the 882  
following: 883

(a) If the patient is at least eighteen years of age and not 884  
incapacitated, the patient; 885

(b) If the patient is not at least eighteen years of age, the 886  
patient's parent, guardian, or legal custodian; 887

(c) If the patient is at least eighteen years of age, 888  
incapacitated, and has a legally effective durable power of 889  
attorney for health care, the patient's attorney in fact under the 890  
durable power of attorney for health care; 891

(d) If the patient is at least eighteen years of age, 892  
incapacitated, and does not have a legally effective durable power 893  
of attorney for health care, the individual or class of 894  
individuals determined according to the order of priority in 895  
division (B)(2) of section 2133.34 of the Revised Code. 896

(2) If the MOLST form is a new form completed by an 897  
individual authorized pursuant to division (D) of this section to 898  
make all medical decisions and to complete a new form on the 899  
patient's behalf, the form preparer shall discuss the instructions 900  
in the form with that individual. 901

(B) The instructions the form preparer lists on the form 902

shall reflect the desires of the appropriate person or persons 903  
determined in accordance with division (A) of this section as 904  
expressed during the discussion. 905

(C) A declaration or durable power of attorney for health 906  
care, or both, if a copy of one or both documents is furnished to 907  
the form preparer, may guide the discussion between the form 908  
preparer and the appropriate person or persons determined in 909  
accordance with division (A) of this section. 910

(D) If a patient participates in the form's completion, the 911  
patient may instruct the form preparer to document in the 912  
appropriate space on the form that the patient authorizes another 913  
individual to do both of the following: 914

(1) Make all medical decisions on the patient's behalf, 915  
including those regarding the administration of CPR and other 916  
life-sustaining treatment; 917

(2) Revoke the form at any time in accordance with the 918  
procedure prescribed in rules adopted under section 2133.31 of the 919  
Revised Code and, if desired, complete a new form on the patient's 920  
behalf. 921

**Sec. 2133.36.** (A) Subject to division (B) of this section, if 922  
individuals in a class of individuals determined in accordance 923  
with division (B)(2) of section 2133.34 of the Revised Code 924  
disagree on any decision that must be made with regard to the 925  
completion of the form, the opinion of the majority of individuals 926  
who are not incapacitated and are available within a reasonable 927  
period of time and willing to participate shall prevail. 928

(B) If a majority of individuals cannot reach a decision 930  
under division (A) of this section, a physician who is not the 931  
issuing practitioner but who has reviewed the patient's medical 932

record shall make the decision that the physician believes is most 933  
consistent with reasonable and prevailing medical standards. 934

Sec. 2133.37. A completed MOLST form shall be placed in a 935  
conspicuous location in the paper or electronic medical record of 936  
the patient to whom it pertains. Whether maintained as part of a 937  
paper or electronic medical record, the form shall be readily 938  
available and retrievable. 939

Sec. 2133.38. (A) If a patient with a MOLST form is 940  
transferred from one health care facility to another, the health 941  
care facility initiating the transfer shall communicate the 942  
existence of, and send a copy of, the form to the receiving 943  
facility prior to the transfer. The copy may be sent via regular 944  
mail or by facsimile or other electronic means, but if maintained 945  
in paper format, shall be placed on the color of paper specified 946  
in rules adopted under section 2133.31 of the Revised Code on 947  
receipt by the receiving facility. A copy of the form is the same 948  
as the original. 949

(B)(1) Consistent with section 2133.37 of the Revised Code, 950  
the copy of the MOLST form shall be placed in a conspicuous 951  
location in the patient medical record immediately on receipt by 952  
the receiving facility. After admission, the attending physician 953  
shall review the MOLST form and, except as provided in division 954  
(B)(2) of this section, discuss with one of the following whether 955  
the form should be amended or revoked and whether a new form 956  
should be issued: 957

(a) If the patient is at least eighteen years of age and not 958  
incapacitated, the patient; 959

(b) If the patient is not at least eighteen years of age, the 960  
patient's parent, guardian, or legal custodian; 961

(c) If the patient is at least eighteen years of age, 962

incapacitated, and has a legally effective durable power of attorney for health care, the patient's attorney in fact under the durable power of attorney for health care; 963  
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(d) If the patient is at least eighteen years of age, incapacitated, and does not have a legally effective durable power of attorney for health care, the individual or class of individuals determined according to the order of priority in division (B)(2) of section 2133.34 of the Revised Code. 966  
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(2) If the patient has authorized, pursuant to division (D) of section 2133.35 of the Revised Code, another individual to make all medical decisions and to revoke a MOLST form on the patient's behalf, the attending physician, after the physician's review of the form, shall discuss with that individual whether the form should be amended or revoked and whether a new form should be issued. 971  
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(C) If a decision is made to amend the form, the attending physician shall proceed with the amendment consistent with the amendment procedure prescribed in rules adopted under section 2133.31 of the Revised Code. If a decision is made to revoke the form, whether or not there is an intention to issue a new form, the revocation shall be done in accordance with section 2133.39 of the Revised Code. 978  
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**Sec. 2133.39.** (A) A patient, an individual the patient has authorized pursuant to division (D) of section 2133.35 of the Revised Code to make all medical decisions and to revoke a MOLST form on the patient's behalf, or, if the patient is under eighteen years of age, the patient's parent, guardian, or legal custodian, may revoke a MOLST form at any time in accordance with the procedure specified in rules adopted under section 2133.31 of the Revised Code. 985  
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(B) If a patient is at least eighteen years of age, 993

incapacitated, and has not authorized an individual pursuant to 994  
division (D) of section 2133.35 of the Revised Code to make all 995  
medical decisions and to revoke the patient's MOLST form, the 996  
patient's attorney in fact under a durable power of attorney for 997  
health care or, if the patient does not have a legally effective 998  
durable power of attorney for health care, the individual or class 999  
of individuals determined in accordance with division (B)(2) of 1000  
section 2133.34 of the Revised Code, may revoke a form in 1001  
accordance with the procedure specified in rules adopted under 1002  
section 2133.31 of the Revised Code if the attending physician 1003  
determines that at least one of the following is the case: 1004

(1) There has been a change in the physical condition of the 1006  
patient that significantly decreases the benefit of the 1007  
instructions in the MOLST form to the patient. 1008

(2) The instructions in the MOLST form are no longer 1009  
significantly effective in achieving the purposes for which 1010  
consent to their use was given by the patient, the patient's 1011  
attorney in fact under a durable power of attorney for health 1012  
care, or the individual or class of individuals determined in 1013  
accordance with division (B)(2) of section 2133.34 of the Revised 1014  
Code. 1015

**Sec. 2133.40.** Unless revoked in accordance with section 1016  
2133.39 of the Revised Code, a MOLST form does not expire. 1017

**Sec. 2133.41.** Except as provided in section 2133.43 of the 1018  
Revised Code, both of the following apply with respect to 1019  
determining which instruction supersedes when an instruction is 1020  
inconsistent in different documents: 1021

(A) An instruction in a MOLST form that is inconsistent with 1022  
an instruction in a do-not-resuscitate order always supersedes the 1023

inconsistent instruction in the do-not-resuscitate order. 1024

(B) An instruction in a MOLST form that is inconsistent with 1025  
an instruction in a general consent to treatment form signed by or 1026  
on behalf of the patient, a declaration, or a durable power of 1027  
attorney for health care supersedes the inconsistent instruction 1028  
in any of those documents unless both of the following conditions 1029  
are met: 1030

(1) The document was executed after the MOLST form, as 1031  
evidenced by the date on the document. 1032

(2) The attending physician is made aware of the document and 1033  
furnished a copy of it. 1034

Sec. 2133.42. Except as provided in section 2133.43 of the 1035  
Revised Code, if a section of a MOLST form has not been completed, 1036  
a health care professional may proceed with the understanding that 1037  
full treatment relative to treatment covered by that section of 1038  
the form, as specified in rules adopted by the director of health 1039  
pursuant to section 2133.31 of the Revised Code, is to be 1040  
considered unless the form indicates that the patient has 1041  
authorized another individual to make all medical decisions on the 1042  
patient's behalf as described in division (D) of section 2133.35 1043  
of the Revised Code. 1044

Sec. 2133.43. If an emergency medical services worker 1045  
determines in an emergency situation that either of the following 1046  
applies, the emergency medical services worker shall proceed to 1047  
treat the patient as directed, verbally or in writing, by a 1048  
physician or the cooperating physician advisory board of the 1049  
emergency medical service organization with which the emergency 1050  
medical services worker is affiliated: 1051

(A) An instruction in the patient's MOLST form is 1052  
inconsistent with an instruction in any of the following: 1053

<u>(1) A do-not-resuscitate order that applies to the patient;</u>	1054
<u>(2) A general consent to treatment form signed by or on behalf of the patient;</u>	1055 1056
<u>(3) A declaration executed by the patient;</u>	1057
<u>(4) A durable power of attorney for health care executed by the patient.</u>	1058 1059
<u>(B) The section of the MOLST form that relates to the patient's treatment in that emergency situation has not been completed.</u>	1060 1061 1062
<u>Sec. 2133.44. (A) Subject to division (B) of this section, no health care facility, health care professional, emergency services worker, or other individual who works for a health care facility as an employee, contractor, or volunteer and who works under the direction of or with the authorization of a physician or advanced practice nurse shall be subject to criminal prosecution, liable in damages in tort or other civil action, or subject to professional disciplinary action for acting in accordance with, or otherwise being in compliance with, a valid MOLST form or sections 2133.31 to 2133.48 of the Revised Code.</u>	1063 1064 1065 1066 1067 1068 1069 1070 1071 1072
<u>(B) Division (A) of this section does not grant an immunity from criminal or civil liability or from professional disciplinary action to health care personnel for actions that are outside their scope of authority.</u>	1073 1074 1075 1076
<u>Sec. 2133.45. The death of an individual that occurs as a result of actions taken consistent with instructions in a MOLST form does not constitute for any purpose a suicide, aggravated murder, murder, or any other homicide.</u>	1077 1078 1079 1080
<u>Sec. 2133.46. The issuance of a MOLST form shall not do any of the following:</u>	1081 1082

(A) Affect in any manner the sale, procurement, issuance, or renewal of a policy of life insurance or annuity, notwithstanding any term of a policy or annuity to the contrary; 1083  
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(B) Modify in any manner or invalidate the terms of a policy of life insurance or annuity that is in effect on the effective date of this section; 1086  
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(C) Impair or invalidate a policy of life insurance or annuity or any health benefit plan. 1089  
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**Sec. 2133.47.** No physician, health care facility, other health care provider, person authorized to engage in the business of insurance in this state under Title XXXIX of the Revised Code, health insuring corporation, other health care benefit plan, legal entity that is self-insured and provides benefits to its employees or members, governmental entity, or other person shall require that an individual be the subject of a MOLST form, or require an individual to revoke or refrain from being the subject of a MOLST form, as a condition of being insured or of receiving health care benefits or services. 1091  
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**Sec. 2133.48.** In the absence of actual knowledge to the contrary and if acting in good faith, an attending physician, other health care professional, emergency services worker, or health care facility may assume that a MOLST form complies with sections 2133.31 to 2133.47 of the Revised Code and is valid. 1101  
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**Sec. 2133.49.** (A) There is hereby created the medical orders for life-sustaining treatment advisory council. The council shall consist of the following thirty-one members: 1106  
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(1) An employee of the department of aging, appointed by the director of aging; 1109  
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(2) An employee of the department of mental health, appointed 1111

<u>by the director of mental health;</u>	1112
<u>(3) An employee of the department of mental retardation and developmental disabilities, appointed by the director of mental retardation and developmental disabilities;</u>	1113 1114 1115
<u>(4) The executive director of the Ohio medical transportation board;</u>	1116 1117
<u>(5) The executive director of the state board of emergency medical services;</u>	1118 1119
<u>(6) The state long-term care ombudsperson;</u>	1120
<u>(7) One representative from each of the following organizations, appointed by the president or chief administrative officer of the organization:</u>	1121 1122 1123
<u>(a) The Ohio hospital association;</u>	1124
<u>(b) The Ohio state medical association;</u>	1125
<u>(c) The Ohio chapter of the American college of emergency physicians;</u>	1126 1127
<u>(d) The Ohio hospice and palliative care organization;</u>	1128
<u>(e) The Ohio health care association;</u>	1129
<u>(f) The Ohio ambulance and medical transportation Association;</u>	1130 1131
<u>(g) The Ohio medical directors association;</u>	1132
<u>(h) The Ohio association of emergency medical services;</u>	1133
<u>(i) The bioethics network of Ohio;</u>	1134
<u>(j) The Ohio nurses association;</u>	1135
<u>(k) The Ohio academy of nursing homes;</u>	1136
<u>(l) The Ohio association of professional firefighters;</u>	1137
<u>(m) The Ohio osteopathic association;</u>	1138

<u>(n) The association of Ohio philanthropic homes, housing and services for the aging;</u>	1139
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<u>(o) The catholic conference of Ohio;</u>	1141
<u>(p) The Ohio private residential association;</u>	1142
<u>(q) The northern Ohio fire fighters association;</u>	1143
<u>(r) The Ohio assisted living association;</u>	1144
<u>(s) The Ohio council for home care;</u>	1145
<u>(t) Lifeline of Ohio;</u>	1146
<u>(u) The Ohio state bar association;</u>	1147
<u>(v) The Ohio association of advanced practice nurses;</u>	1148
<u>(w) The Ohio fire chiefs association;</u>	1149
<u>(x) The Ohio state firefighters association;</u>	1150
<u>(y) Agudath Israel of America.</u>	1151
<u>(B) The council shall meet at the call of the director of health. The department of health shall provide meeting space, staff services, and technical assistance required by the council in carrying out its duties.</u>	1152
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<u>(C) The council shall advise the director of health regarding the rules the director must adopt under section 2133.31 of the Revised Code and, at such times that the rules are subject to review pursuant to section 119.032 of the Revised Code, whether and to what extent the rules should be continued without change, amended, or rescinded.</u>	1156
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<u>Each member of the council has one vote. A majority of the members present at a meeting constitutes a quorum, and the affirmative vote of a majority of the members present is necessary for the council to make an official recommendation to the director on a particular rule.</u>	1162
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The director may assign other duties to the council, as the 1167  
director considers appropriate. 1168

(D) Members of the council shall serve without compensation, 1169  
except to the extent that serving on the council is considered 1170  
part of their regular duties of employment. 1171

(E) Sections 101.82 to 101.87 of the Revised Code do not 1172  
apply to the council. 1173

**Sec. 3795.03.** Nothing in section 3795.01 or 3795.02 of the 1174  
Revised Code shall do any of the following: 1175

(A) Prohibit or preclude a physician, certified nurse 1176  
practitioner, certified nurse-midwife, or clinical nurse 1177  
specialist who carries out the responsibility to provide comfort 1178  
care to a patient in good faith and while acting within the scope 1179  
of the physician's or nurse's authority from prescribing, 1180  
dispensing, administering, or causing to be administered any 1181  
particular medical procedure, treatment, intervention, or other 1182  
measure to the patient, including, but not limited to, 1183  
prescribing, personally furnishing, administering, or causing to 1184  
be administered by judicious titration or in another manner any 1185  
form of medication, for the purpose of diminishing the patient's 1186  
pain or discomfort and not for the purpose of postponing or 1187  
causing the patient's death, even though the medical procedure, 1188  
treatment, intervention, or other measure may appear to hasten or 1189  
increase the risk of the patient's death; 1190

(B) Prohibit or preclude health care personnel acting under 1191  
the direction of a person authorized to prescribe a patient's 1192  
treatment and who carry out the responsibility to provide comfort 1193  
care to the patient in good faith and while acting within the 1194  
scope of their authority from dispensing, administering, or 1195  
causing to be administered any particular medical procedure, 1196  
treatment, intervention, or other measure to the patient, 1197

including, but not limited to, personally furnishing, 1198  
administering, or causing to be administered by judicious 1199  
titration or in another manner any form of medication, for the 1200  
purpose of diminishing the patient's pain or discomfort and not 1201  
for the purpose of postponing or causing the patient's death, even 1202  
though the medical procedure, treatment, intervention, or other 1203  
measure may appear to hasten or increase the risk of the patient's 1204  
death; 1205

(C) Prohibit or affect the use or continuation, or the 1206  
withholding or withdrawal, of life-sustaining treatment, CPR, or 1207  
comfort care under Chapter 2133. of the Revised Code; 1208

(D) Prohibit or affect the provision or withholding of health 1209  
care, life-sustaining treatment, or comfort care to a principal 1210  
under a durable power of attorney for health care or any other 1211  
health care decision made by an attorney in fact under sections 1212  
1337.11 to 1337.17 of the Revised Code; 1213

(E) Affect or limit the authority of a physician, a health 1214  
care facility, a person employed by or under contract with a 1215  
health care facility, or emergency service personnel to provide or 1216  
withhold health care to a person in accordance with reasonable 1217  
medical standards applicable in an emergency situation; 1218

(F) Affect or limit the authority of a person to refuse to 1219  
give informed consent to health care, including through the 1220  
execution of a durable power of attorney for health care under 1221  
sections 1337.11 to 1337.17 of the Revised Code, the execution of 1222  
a declaration under sections 2133.01 to 2133.15 of the Revised 1223  
Code, the completion of a MOLST form under sections 2133.30 to 1224  
2133.48 of the Revised Code, or authorizing the withholding or 1225  
withdrawal of CPR under sections 2133.21 to ~~2133.26~~ 2133.27 of the 1226  
Revised Code. 1227

**Section 2.** That existing sections 2133.02, 2133.21, 2133.211, 1228

2133.22, 2133.23, 2133.24, 2133.25, 2133.26, and 3795.03 of the  
Revised Code are hereby repealed.

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