As Passed by the Senate

131st General Assembly

Regular Session **Sub. S. B. No. 165**

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Senator Lehner

Cosponsors: Senators Seitz, Jones, Skindell, Coley, Brown, Burke, Eklund, Hackett, Patton, Sawyer, Tavares

A BILL

To amend sections 2133.02, 2133.21, 2133.211, 2133.23, 2133.24, 2133.25, 2133.26, 3795.03, 4730.20, 4765.35, 4765.37, 4765.38, and 4765.39; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 2133.211 (2133.23), 2133.23 (2133.24), 2133.24 (2133.25), 2133.25 (2133.26), and 2133.26 (2133.27); to enact new section 2133.22 and sections 2133.28, 2133.29, 2133.30, 2133.31, 2133.32, 2133.33, 2133.34, 2133.35, 2133.36, 2133.37, 2133.38, 2133.39, 2133.40, 2133.41, 2133.42, 2133.43, 2133.44, 2133.45, 2133.46, 2133.47, and 2133.48; and to repeal section 2133.22 of the Revised Code to establish procedures for the use of medical orders for life-sustaining treatment and to make changes to the laws governing DNR identification and orders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2133.02, 2133.21, 2133.211, 2133.23, 2133.24, 2133.25, 2133.26, 3795.03, 4730.20, 4765.35, 4765.37, 4765.38, and 4765.39 be amended; sections 2133.211 (2133.23), 2133.23 (2133.24), 2133.24 (2133.25), 2133.25 (2133.26), and 2133.26 (2133.27) be amended for the purpose of adopting new section numbers as shown in parentheses; and new section 2133.22 and sections 2133.28, 2133.29, 2133.30, 2133.31, 2133.32, 2133.33, 2133.34, 2133.35, 2133.36, 2133.37, 2133.38, 2133.39, 2133.40, 2133.41, 2133.42, 2133.43, 2133.44, 2133.45, 2133.46, 2133.47, and 2133.48 of the Revised Code be enacted to read as follows:

Sec. 2133.02. (A)(1) An adult who is of sound mind voluntarily may execute at any time a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment. The declaration shall be signed at the end by the declarant or by another individual at the direction of the declarant, state the date of its execution, and either be witnessed as described in division (B)(1) of this section or be acknowledged by the declarant in accordance with division (B)(2) of this section. The declaration may include a designation by the declarant of one or more persons who are to be notified by the declarant's attending physician at any time that life-sustaining treatment would be withheld or withdrawn pursuant to the declaration. The declaration may include a specific authorization for the use or continuation or the withholding or withdrawal of CPR, but the failure to include a specific authorization for the withholding or withdrawal of CPR does not preclude the withholding or withdrawal of CPR in accordance with sections 2133.01 to 2133.15 or sections 2133.21 to 2133.26 2133.29 of the Revised Code.

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

(3)(a) If a declarant who has authorized the withholding or withdrawal of life-sustaining treatment intends that the declarant's attending physician withhold or withdraw nutrition or hydration when the declarant is in a permanently unconscious state and when the nutrition and hydration will not or no longer will serve to provide comfort to the declarant or alleviate the declarant's pain, then the declarant shall authorize the declarant's attending physician to withhold or withdraw nutrition or hydration when the declarant is in the permanently unconscious state by doing both of the following in the declaration:

(i) Including a statement in capital letters or other conspicuous type, including, but not limited to, a different font, bigger type, or boldface type, that the declarant's attending physician may withhold or withdraw nutrition and hydration if the declarant is in a permanently unconscious state

and if the declarant's attending physician and at least one other physician who has examined the declarant determine, to a reasonable degree of medical certainty and in accordance with reasonable medical standards, that nutrition or hydration will not or no longer will serve to provide comfort to the declarant or alleviate the declarant's pain, or checking or otherwise marking a box or line that is adjacent to a similar statement on a printed form of a declaration;

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

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

(B)(1) If witnessed for purposes of division (A) of this section, a declaration shall be witnessed by two individuals as described in this division in whose presence the declarant, or another individual at the direction of the declarant, signed the declaration. The witnesses to a declaration shall be adults who are not related to the declarant by blood, marriage, or adoption, who are not the attending physician of the declarant, and who are not the administrator of any nursing home in which the declarant is receiving care. Each witness shall subscribe the witness' signature after the signature of the declarant or other individual at the direction of the declarant and, by doing so, attest to the witness' belief that the declarant appears to be of sound mind and not under or subject to duress, fraud, or undue influence. The signatures of the declarant or other individual at the direction of the declarant under division (A) of this section and of the witnesses under this division are not required to appear on the same page of the declaration.

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

(C) An attending physician, or other health care personnel acting under the direction of an attending physician, who is furnished a copy of a declaration shall make it a part of the

declarant's medical record and, when section 2133.05 of the Revised Code is applicable, also shall comply with that section.

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

(2) If an attending physician of a declarant or a health care facility in which a declarant is confined is not willing or not able to comply or allow compliance with the declarant's declaration, the physician or facility promptly shall so advise the declarant and comply with the provisions of section 2133.10 of the Revised Code, or, if the declaration has become operative as described in division (A) of section 2133.03 of the Revised Code, shall comply with the provisions of section 2133.10 of the Revised Code.

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

Sec. 2133.21. As used in this section and sections ~~2133.21~~ 2133.22 to ~~2133.26~~ 2133.29 of the Revised Code, unless the context clearly requires otherwise:

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

(B) "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.

(C) "Declaration," ~~"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~~ means a document executed in accordance with section 2133.02 of the Revised Code.

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

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

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

(3) That an issuing practitioner has completed a MOLST form that has not been revoked as described in section 2133.38 of the Revised Code.

"Issuing practitioner" not necessarily patient's "attending physician" who knows history and needs (2133.30).

~~(D)~~ (E) "Do-not-resuscitate order" means a written directive issued by a physician prior to or not later than six months after the effective date of this amendment in accordance with the do-not-resuscitate protocol that identifies a person and specifies that CPR should not be administered to the person so identified.

~~(E)~~ (F) "Do-not-resuscitate protocol" means the standardized method of procedure for the withholding of CPR by physicians, emergency ~~medical service~~ services personnel, and health care facilities that ~~is~~ was adopted in the rules of the department of health pursuant to former section 2133.25 of the Revised Code.

~~(F)~~ (G) "Emergency ~~medical~~ services personnel" means paid or volunteer firefighters~~,~~; law enforcement officers~~,~~; ~~or any of the following defined in section 4765.01 of the Revised Code or described in section 4765.011 of the Revised Code: first responders,~~ emergency medical ~~technicians-basic~~ responders, emergency medical ~~technicians-intermediate~~ technicians, advanced

emergency medical ~~technicians-paramedic~~ technicians, ~~medical technicians,~~ or ~~other emergency services personnel acting within the ordinary course of their profession~~ paramedics. "Emergency services person" is the singular of "emergency services personnel."

~~(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 the form specified in section 2133.31 of the Revised Code.

Sec. 2133.22. Nothing in sections 2133.23 to 2133.29 of the Revised Code condones, authorizes, or approves of mercy killing, assisted suicide, or euthanasia.

Stating this does not negate the possibility (see later notes).

Sec. ~~2133.211~~ 2133.23. A person who holds a certificate of authority as a certified nurse practitioner or clinical nurse specialist issued under Chapter 4723. of the Revised Code may take any action that may be taken by an attending physician under sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code and has the immunity provided by section ~~2133.22~~ 2133.28 of the Revised Code if the action is taken pursuant to a standard care arrangement with a collaborating physician.

Attending physician most knowledgeable for such critical patient care decisions.

A person who holds a license to practice as a physician assistant issued under Chapter 4730. of the Revised Code may take any action that may be taken by an attending physician under sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code and has the immunity provided by section ~~2133.22~~ 2133.28 of the Revised Code if the action is taken pursuant to a supervision agreement entered into under section 4730.19 of the Revised Code, including, if applicable, the policies of a health care

facility in which the physician assistant is practicing.

Sec. ~~2133.23~~ 2133.24. (A) If emergency ~~medical~~ services personnel~~, other than physicians,~~ are presented with DNR identification possessed by a person or are presented with a ~~written~~ do-not-resuscitate order for a ~~person or if a physician directly issues to emergency medical services personnel, other than physicians, an oral do-not-resuscitate order for a person,~~ the emergency ~~medical~~ services personnel shall comply with the ~~do-not-resuscitate protocol for the person. If an oral do-not-resuscitate order is issued by a physician who is not present at the scene, the emergency medical services personnel shall verify the physician's identity~~ instructions signified by the DNR identification or in the do-not-resuscitate order.

(B) If a person possesses DNR identification and if the person's attending physician or the health care facility in which the person is located is unwilling or unable to comply with the ~~do-not-resuscitate protocol for the person~~ instructions signified by the person's DNR identification or in the do-not-resuscitate order, the attending physician or the health care facility shall not prevent or attempt to prevent, or unreasonably delay or attempt to delay, the transfer of the person to a different physician who will follow the protocol instructions or to a different health care facility in which the ~~protocol~~ instructions will be followed.

Not a conscience clause.
"shall not prevent or attempt to prevent"
How would this actually work in practice – what would a facility or an attending physician unwilling or unable to comply with the DNR do?
Wouldn't they have to refer to another facility or physician?
If so, this would still keep the facility or practitioner complicit in a morally objectionable act.

(C) If a person ~~who~~ being transferred from one health care facility to another possesses DNR identification ~~or for whom a current~~, has executed a declaration, or is the subject of a do-not-resuscitate order that has been issued ~~is being transferred from one health care facility to another, before or at the time of the transfer~~, the transferring health care facility shall notify the receiving health care facility and the persons transporting the person of the existence of the DNR identification ~~or the order~~, declaration, or do-not-resuscitate order. The notice shall be given before or at the time of the transfer. ~~If a current do-not-resuscitate order was issued orally, it shall be reduced to writing before the time of the transfer.~~ The DNR identification ~~or the order~~, declaration, or

do-not-resuscitate order shall accompany the person to the receiving health care facility and shall remain in effect unless it is revoked or unless, in the case of a do-not-resuscitate order, the order no longer is current.

(D) If an emergency services person, a physician, or a health care facility is aware that a person's DNR identification signifies that the person is the subject of a MOLST form, the emergency services person, physician, or health care facility shall comply with sections 2133.30 to 2133.48 of the Revised Code.

Sec. ~~2133.24~~ 2133.25. (A) The death of a person resulting from the withholding or withdrawal of CPR ~~for~~ from the person pursuant to ~~the do-not-resuscitate protocol and in the circumstances described in section 2133.22 of the Revised Code~~ instructions in a declaration executed by the person, a do-not-resuscitate order that has been issued for the person, or pursuant to instructions that form the basis of the person's DNR identification or in accordance with division (A) of section 2133.23 of the Revised Code does not constitute for any purpose a suicide, aggravated murder, murder, or any other homicide.

"division (A) of section 2133.23" does not exist

(B)(1) If a person has executed a declaration, a do-not-resuscitate order has been issued for the person, or the person possesses DNR identification ~~or if a current do-not-resuscitate order has been issued for a person~~, the existence of the declaration, do-not-resuscitate order, or the possession ~~or order~~ of the DNR identification shall not do either of the following:

(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;

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

(2) Notwithstanding any term of a policy of life insurance or annuity to the contrary, the withholding or withdrawal of CPR from a person who is insured or covered under the policy or annuity and who possesses DNR identification ~~or for whom a current do-not-resuscitate order has been issued, in accordance with sections 2133.21 to 2133.26 of the Revised Code~~, who has executed a declaration, or for whom a do-not-resuscitate order

has been issued shall not impair or invalidate any policy of life insurance or annuity.

(3) Notwithstanding any term of a policy or plan to the contrary, neither of the following shall impair or invalidate any policy of health insurance or other health care benefit plan:

(a) The withholding or withdrawal in accordance with sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code of CPR from a person who is insured or covered under the policy or plan and who possesses DNR identification ~~or for whom a current do-not-resuscitate order has been issued~~, who has executed a declaration, or for whom a do-not-resuscitate order has been issued;

(b) The provision in accordance with sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code of CPR to a person of the nature described in division (B)(3)(a) of this section.

(4) 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, or other person shall require an individual to possess DNR identification, execute a declaration, or have a do-not-resuscitate order issued, or shall require an individual to revoke or refrain from possessing DNR identification, as a condition of being insured or of receiving health care benefits or services.

(C)(1) Sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code do not create any presumption concerning the intent of an individual who does not possess DNR identification with respect to the use, continuation, withholding, or withdrawal of CPR.

(2) Sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code do not affect the right of a person to make informed decisions regarding the use, continuation, withholding, or withdrawal of CPR for the person as long as the person is able to make those decisions.

(3) Sections 2133.21 to ~~2133.26~~ 2133.29 of the Revised Code are in addition to and independent of, and do not limit, impair, or supersede, any right or responsibility that a person has to effect the withholding or withdrawal of life-sustaining treatment to another pursuant to sections 2133.01 to 2133.15 or

sections 2133.30 to 2133.48 of the Revised Code or in any other lawful manner.

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

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

(B) ~~The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration of sections 2133.21 to 2133.26 of the Revised Code~~ The do-not-resuscitate protocol adopted by the department in rules adopted under former section 2133.25 of the Revised Code is effective only for do-not-resuscitate orders issued on a date that is not later than six months after the effective date of this amendment. The criteria for determining when a do-not-resuscitate order is current apply only to orders issued before that date.

How will citizens with outdated DNR be informed? Will they then be encouraged to replace with MOLST?

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

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

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

~~(3) The Ohio chapter of the American college of emergency~~

~~physicians;~~

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

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

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

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

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

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

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

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

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

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

~~(14) The department of developmental disabilities;~~

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

~~(16) The association of Ohio philanthropic homes, housing and services for the aging;~~

~~(17) The catholic conference of Ohio;~~

~~(18) The department of aging;~~

~~(19) The department of mental health and addiction services;~~

~~(20) The Ohio private residential association;~~

~~(21) The northern Ohio fire fighters association.~~

Sec. ~~2133.26~~ 2133.27. (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~~ 2133.24 of the Revised Code.

(2) No person shall purposely conceal, cancel, deface, or obliterate the DNR identification of another person without the consent of the other person.

(3) No person shall purposely falsify or forge a revocation of a declaration that is the basis of the DNR identification of another person or purposely falsify or forge an order of a physician that purports to supersede a do-not-resuscitate order issued for another person.

(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.

(5) ~~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~~ Neither of the following shall purposely conceal or withhold that personal knowledge with the intent to cause the use, withholding, or withdrawal of CPR for the other person:

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

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

What order would supercede DNR?

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

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

Sec. 2133.28. (A) Regarding 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 identification, none of the following shall be subject to criminal prosecution, liable in damages in a tort or other civil action for injury, death, or loss to person or property, or subject to professional disciplinary action arising out of or relating to the withholding or withdrawal of CPR from that person under those circumstances if the withholding or withdrawal is in accordance with the instructions signified by the DNR identification:

Does this section refer to MOLST, since MOLST to replace DNR?

(1) The health care facility in which the person is present, the administrator of that facility, and any person who works for the facility as an employee or contractor, or who volunteers at the health care facility, and who participates under the direction of or with the authorization of a physician in the withholding or withdrawal of CPR from the person possessing the DNR identification;

(2) A physician who causes the withholding or withdrawal of CPR from a person who possesses DNR identification;

(3) Any emergency services person who causes or participates in the withholding or withdrawal of CPR from the person possessing the DNR identification.

(B) If, after DNR identification is discovered in the possession of a person, the person makes an oral or written request to receive CPR, any person who provides CPR pursuant to the request, any health care facility in which CPR is provided, and the administrator of any health care facility in which CPR is provided are not subject to criminal prosecution as a result of the provision of CPR, are not liable in damages in tort or other civil action for injury, death, or loss to person or property that arises out of or is related to the provision of CPR, and are not subject to professional disciplinary action as a result of the provision of CPR.

Sec. 2133.29. (A) In an emergency situation, emergency services personnel are not required to search a person to determine if the person possesses DNR identification. If emergency services personnel or emergency department personnel provide CPR to a person in possession of DNR identification in an emergency situation, and if, at that time, the personnel do not know and do not have reasonable cause to believe that the person possesses DNR identification, the emergency services personnel and emergency department personnel are not subject to criminal prosecution as a result of the provision of the CPR, are not liable in damages in tort or other civil action for injury, death, or loss to person or property that arises out of or is related to the provision of CPR, and are not subject to professional disciplinary action as a result of the provision of CPR.

(B) Nothing in this section or sections 2133.21 to 2 133.28 of the Revised Code grants immunity to a physician for issuing a

do-not-resuscitate order that is contrary to reasonable medical standards or that the physician knows or has reason to know is contrary to the wishes of the patient or of a person who is authorized to make informed medical decisions on the patient's behalf.

Sec. 2133.30. As used in this section and sections 2133.31 to 2133.48 of the Revised Code:

(A) "Artificially administered hydration" means fluids that are technologically administered.

(B) "Artificially administered nutrition" means sustenance that is technologically administered.

"Artificially administered"
Not self-provided with spoon or fork, or fed by another person.

"technologically administered"
Patients with feeding tubes can often administer nutrition through tube themselves.
Nutrition through a straw is artificially/technologically administered.

(C) "Attending physician" means the physician to whom a patient or patient's family has assigned primary responsibility for the medical treatment or care of the patient or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(D) "Certified nurse practitioner" and "clinical nurse specialist" have the same meanings as in section 4723.01 of the Revised Code.

(E) "Comfort care" means any of the following:

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

"not to postpone death"
No nutrition (i.e., food) that might keep a person alive.
Could lead to euthanasia.

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

"not to postpone death"
No hydration (i.e., water) that might keep a person alive.

Could lead to euthanasia.

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

"not to postpone death"
No medicine (i.e., including routine prescriptions, dialysis) that might keep a person alive, e.g., diabetes, blood pressure, kidney function, etc.
Could lead to euthanasia.

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

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

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

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

(J) "Emergency services personnel" has the same meaning as in section 2133.21 of the Revised Code.

(K) "Form preparer" means the issuing practitioner who completes and signs a medical orders for life-sustaining treatment form or the individual who completes the form pursuant to the practitioner's delegation and for the practitioner's signature.

Not limited to attending physician.

(L) "Guardian" has the same meaning as in section 2133.01 of the Revised Code.

(M) "Health care facility" means any of the following:

(1) A health care facility, as defined in section 1337.11 of the Revised Code;

(2) An ambulatory surgical facility, as defined in section

3702.30 of the Revised Code;

(3) A residential care facility, as defined in section 3721.01 of the Revised Code;

(4) A freestanding dialysis center.

(N) "Issuing practitioner" means a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist who issues medical orders for life-sustaining treatment for a patient by signing as the issuing practitioner on the medical orders for life-sustaining treatment form for the patient.

"Issuing practitioner" not attending physician most knowledgeable of patient's history.

(O) "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.

"prolong the process of dying"
Move from preserving life to hastening death.
Bias against helping patient live, recover, survive.

(P) "Medical orders for life-sustaining treatment" means instructions, issued by a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist, 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 prescribed by the Revised Code.

"withdrawal of life-sustaining treatment and comfort care"
Comfort care 1) is always to be administered to patient until death; 2) also here by definition can include withdrawal of food and water, which is basic not extraordinary care, plus withdrawal of basic medications and treatment (2133.30 (E) 1 & 2 & 3).
Could lead to euthanasia.

(Q) "Medical orders for life-sustaining treatment form," "MOLST form," or "form" means the form specified in section 2133.31 of the Revised Code.

(R) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and

surgery or osteopathic medicine and surgery.

(S) "Physician assistant" means an individual who holds a valid certificate to practice as a physician assistant issued under Chapter 4730. of the Revised Code.

Sec. 2133.31. A medical orders for life-sustaining treatment form shall be substantially in the following form. It is recommended that the form's title, along with the patient's identifying information (name, date of birth, last four digits of social security number, and gender), appear at the top of the first page of the form. It is recommended that the top of the form's remaining pages include the form's title as well as the patient's name and date of birth.

MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT FORM

("MOLST FORM")

Simplistic check boxes for complex, life ending decision-making.

This form must be reviewed at least yearly from the date it was signed or last reviewed as indicated in section G. of this form, as applicable. Date due for review: .....

Patient's Name (last name, first name, and middle initial, printed): .....

Patient's Date of Birth: .....
Last four digits of patient's SSN: ... Gender (M or F) : ..... .

No duty of healthcare provider to obtain documented informed consent before MOLST signed or implemented.
Obtaining informed consent to treatment (including refusing treatment) or a care plan requires documented disclosure of diagnosis, prognosis, treatment alternatives and their benefits or burdens so that the patient's (or surrogate's) decision is informed.

The HIPAA Privacy Rule permits disclosure of this MOLST form to other health care providers as necessary.

When signed, this form supersedes all previously signed MOLST

forms. Comfort measures will be provided regardless of the intervention that is chosen.

"Comfort measures will be provided regardless…."
Conflicts with 2133.30 (P).

Following form's checkboxes:

- ***Oversimplify medical treatment decisions; patient cannot predict ahead of time what may be medically necessary or not.***
- ***Present all options as morally neutral, including basic nutrition (food) and hydration (water), i.e., non-extraordinary care.***
- ***Bear risk of indicating on a brief form withholding treatment that in certain cases could be euthanasia (stating this is not the case in the bill does not negate the possibility.)***

A. CARDIOPULMONARY RESUSCITATION (CPR): Individual has no pulse and is not breathing. Check only one:

[ ] Attempt resuscitation/CPR. Apply full treatment and intervention including intubation, advanced airway interventions, mechanical ventilation, defibrillation, and cardio version as indicated. Transfer to hospital or intensive care unit in a hospital, as applicable (if indicated) .

[ ] Do NOT attempt resuscitation (DNR; do no t use CPR).

When patient is not in cardiopulmonary arrest, follow the orders in sections B and C.

B. MEDICAL INTERVENTIONS: Patient has a pulse, is breathing, or both. Check only one:

[ ] Comfort measures only . Use medication by any route, positioning, wound care, and other measures to relieve pain and suffering. Use oxygen, suction, and manual treatment of airway obstruction as needed for comfort. Transfer to the appropriate level of care setting to provide comfort care measures.

Additional order/instructions:

.....

.....

Does not instruct patient to specify routine medications and treatment, the removal of which could hasten or cause death.

[ ] Limited additional interventions . Use all comfort measures described above. Use medical treatment, antibiotics, intravenous fluids, and cardiac monitor as indicated. Do not use intubation, advanced airway interventions, or mechanical ventilation. May consider alternative airway support (e.g., CPAP or BiPAP). Transfer to hospital if indicated; generally avoid intensive care.

Terminology foreign and intimidating to most non-medical people, which could influence decision against.

"Do not use intubation, advanced airway intervention or mechanical ventilation."
Most will not know this means do not give food, breathing help (i.e., starvation, suffocation).
Choosing this could mean death for a person who might require such intensive care for a limited time to survive and live (e.g., an accident or heart attack victim, a severely dehydrated or malnourished patient).
Could cause patient to unknowingly choosing euthanasia.

Additional order/instructions:

.....

.....

Does not instruct patient to specify routine medications and treatment, the removal of which could hasten or cause death.

[ ] Full intervention. Use all comfort measures described above as well as limited medical interventions (described above), as indicated. Use intubation, advanced airway interventions, mechanical ventilation, defibrillation, and cardio version as indicated. Transfer to hospital and intensive care if

indicated.

Terminology foreign and intimidating to most non-medical people, which could influence choice against and lead patient to unknowingly choose euthanasia.

Additional order/instructions:

....
.....

Does not instruct patient to specify routine medications and treatment, the removal of which could hasten or cause death.

C. ARTIFICIALLY ADMINISTERED NUTRITION/HYDRATION

The administration of nutrition or hydration, or both, whether orally or by medical means, shall occur except in the event that the patient is diagnosed with a terminal condition or is in a permanently unconscious state, as those terms are defined in Ohio Revised Code section 2133.01, and the administration of nutrition or hydration becomes a greater burden than benefit to the patient.

"terminal"
Doctors really don't know when a person will die, yet bill assumes that a person diagnosed as terminal indicates a clear time of death. A terminal diagnosis can assume life expectancy with normal medical care, or without care.
Though "terminal," nutrition (food) and hydration (water) remain basic comfort care, to avoid starving a patient to death, until the patient's body is actively shutting down and no longer accepts sustenance.
Bill does not take into account person-specific needs regarding terminal diagnosis, e.g., if a patient is insulin-dependent, is life expectancy based on receiving insulin or not?

"permanently unconscious"
Permanently unconscious does not equal dying. Studies are proving brain, awareness, even communication in such locked-in patients, some regaining consciousness.

Always offer by mouth, if feasible. Check only one in each column:

Unclear why preference indicated for tube feeding to be always offered by mouth if feasible, when nasal or direct-to-stomach administration not uncommon.
Hydration (water) not addressed at all in following checkboxes.

[ ] Long-term artificial

nutrition by tube feeding

[ ] Defined trial period of

artificial nutrition by

tube feeding

Unclear. Who defines and how, and how can patient choose this without knowing circumstances until they occur?

[ ] No a artificial nutrition

by tube feeding

Nutrition (food) and hydration (water) by any means is basic, not extraordinary, care.

Goals of care or additional order/instructions: .....

..... .

Regarding form Authorization:

- ***No information on form requiring patient's written acknowledgement that signing MOLST is completely voluntary with no negative treatment consequences if not signed.***
- ***No patient signature required to implement MOLST or to acknowledge that the form truly represents a patient's choices; can be signed by a surrogate.***
- ***Not specified that surrogate may sign for patient only after attending physician documents on form that the patient is certified as unable to make healthcare decisions on their own.***

D . AUTHORIZATION

Authorization name and signature belongs to (check only one):

[ ] Patient

[ ] Guardian appointed by a probate court

[ ] Attorney in fact under patient's durable power of attorney for health care

[ ] Next of kin as specified in Ohio Revised Code section 2133.08(B)

•Spouse

•Majority of adult children (available within reasonable time)

•Parents

•Majority of adult siblings (available within reasonable time)

•Other nearest relative (available within reasonable time)

[ ] Parent, guardian, or legal custodian of a minor

Authorized individual (above) has reviewed and completed preferences in the following documents, as indicated, as a guide for this MOLST form and has signed below:

[ ] Living will NO YES - attach copy

[ ] Durable power of attorney

for health care NO YES - attach copy

MOLST not needed if Living Will and/or Durable Power of Attorney are in place; presents duplication of effort/potential conflict with current Ohio law and/or other advance directives.
Much MOLST-like protocol is already addressed in Ohio law but not so open-ended or simplistic:

- ***Power of Attorney for Health Care (O.R.C. 1337.11-1337.17)***
- ***Living Will (O.R.C. 2133.02)***

If patient has MOLST plus other advance directive(s), which has priority?

Name (printed): .....

Phone Contact: .....

Signature (mandatory): .....

Date Signed: .....

E . SIGNATURE OF ISSUING PRACTITIONER

My signature in this section indicates, to the best of my knowledge, that these orders are consistent with the patient's current medical condition and preferences as indicated by the patient's advance directive s , previous discussions with the person identified in Section D. , above, or both.

"to the best of my knowledge"
Because not attending physician, issuing practitioner's knowledge of the patient will be limited.

Name of issuing practitioner (printed:

.....

Signature of Issuing Practitioner (mandatory):

.....

Date Signed: ....

License/Certificate Number: .....

Phone Number: ..... .

. SIGNATURE OF FORM PREPARER

Name of Form Preparer and Credentials (printed):

.....

Need not be attending physician, nor someone who knows the patient at all.

Signature of Form Preparer (mandatory):

.....

Date signed: ..... Phone Number: .....

G . REVIEW OF MOLST FORM

A MOLST form must be reviewed at least yearly from the date it was signed or the last date it was reviewed, as specified in the review date and time column, below. A form that is not reviewed within these time frames expires on the date that is one year and one day from the day it was signed or last reviewed, as applicable. A form also expires if it is revoked in accordance with Ohio Revised Code section 2133.38.

If MOLST intended for those deemed with less than six months to live, why annual review?
Who will perform the review?
How is review initiated and scheduled?

Review of this MOLST Form

No options offered for "revoked completely" and/or "patient prefers alternative directive."

Review date Reviewer's Location of Review Outcome

and timenamereview

(1) [ ] No change

[ ] Revoked and
new form completed

(2) [ ] No change
[ ] Revoked and
new form completed

(3) [ ] No change
[ ] Revoked and
new form completed

SEND FORM WITH PATIENT WHENEVER PATIENT IS TRANSFERRED OR DISCHARGED

Use of original form is strongly encouraged. Photocopies and faxes of signed MOLST forms are legal and valid.

Confusion between paper and online records; multiple versions of MOLST; tracking photocopies and faxes, especially if revoked.

The following information shall appear on one or more pages that are separate from the other pages of the MOLST form:

OHIO MOLST FORM INFORMATIONAL SUPPLEMENT

NOTICE TO PATIENT NAMED ON THIS FORM

The MOLST form is a medical order form that documents important decisions regarding your health care. Your input and approval or the input and approval of your legal representative (i.e., an agent, guardian, next of kin, or legal custodian) concerning the form's use is needed before it becomes valid. The following is an information supplement to the MOLST form. Before signing the form after consulting with your health care practitioner, you should know the facts in the supplement.

Overview

The MOLST form is not for everyone and is always voluntary. It is only for an individual with a serious illness or frailty, for whom a health care professional would not be surprised if the individual died within one year.

"always voluntary"

If always voluntary, why put MOLST in statute where it can be deemed legal and required.

"serious illness"
Serious illness could still mean years of life.

"frailty" and "would not be surprised if individual died within a year"
Highly subjective – no documented medical reasons for this diagnosis required of attending physician.

The orders in the MOLST form are based on your medical condition, preferences, and advance directives (if any) at the time the orders are issued. An incomplete section of the form does not invalidate the form and implies full treatment for the incomplete section . The form indicates your wishes for medical treatment in your current state of health. Once initial medical treatment has begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and the form can be modified at any time to reflect such changes. However, the form cannot address all medical treatment decisions that may need to be made. An advance directive, such as a living will (declaration) or durable power of attorney for health care, is recommended for all competent adults regardless of their health status. An advance directive allows you to document in detail your instructions for future health care and specify a health care "attorney-in-fact" or agent to speak on your behalf if necessary.

"advance directives"
Why have MOLST if have other advance directives?

"The form indicates your wishes in your current state of health."
Form to be completed whether diagnosed as dying or not?
Regardless, requires patients to anticipate decisions for later health situations that may or may not occur.

"Your medical care and the form can be modified at any time to reflect such changes."
How? With who? Who initiates?

"An advance directive, such as a living will (declaration) or durable power of attorney for health care, is recommended for all competent adults regardless of their health status"
MOLST not needed if these are in place; presents duplication of effort/potential conflict with current Ohio law and/or other advance directives.

Much MOLST-like protocol is already addressed in Ohio law but not so open-ended or simplistic:

- ***Power of Attorney for Health Care (O.R.C. 1337.11-1337.17)***
- ***Living Will (O.R.C. 2133.02)***

If patient has MOLST plus other advance directive(s), which has priority?

The duty of medicine is to care for you even when you cannot be cured. You will be treated with dignity and respect and attention will be given to your medical needs. Moral judgments about the use of technology to maintain life will reflect the inherent dignity of human life, the duty of medical care, medical standards of practice, and your individual wishes. Use of the MOLST form recognizes the possibility of natural death. It does not authorize active euthanasia or physician-assisted suicide. You will still receive medical treatment regardless of whether this form is signed.

"Moral judgments about the use of technology to maintain life will reflect the inherent dignity of human life, the duty of medical care, medical standards of practice, and your individual wishes."
Subjective, unclear – how/criteria not specified.
Without documented criteria, prevailing cultural bias against "machines" to reinvigorate, maintain or sustain life plus presumed "dependency" for patients disabled, elderly, or chronically ill but not dying can color interpretation of the "inherent dignity of human life" and lead to euthanasia.

"Use of the MOLST form recognizes the possibility of natural death."
Unclear statement, why included.

"You will still receive medical treatment regardless of whether this form is signed."
Type of and level of "medical treatment" unclear.

Implementation of the MOLST form

When signed, this form supersedes all previously signed MOLST forms. If a health care practitioner or facility cannot comply with the orders in the form due to policies or personal ethics, the practitioner or facility must arrange for your transfer to another practitioner or facility and provide the care that you request until the transfer has been completed.

"this form supersedes all previously signed MOLST forms"
Destruction of previously signed forms not permitted – great confusion of several copies in different places.

Review of MOLST form

This form must be reviewed not later than one year after it is signed and at least yearly thereafter. A form that is not reviewed under these time frames expires on the date that is one year and one day from the date it was signed or last reviewed, as applicable, as specified in section G. of the form. In addition, this form must be reviewed when you are transferred from one care setting or care level to another or there is a substantial change in your health status. A new MOLST form must be completed if you wish to make a substantive change to your treatment goals (e.g., reversal of a prior order). A MOLST form that you or your representative signed will be retained in your medical record pursuant to Ohio Revised Code section 2133.36.

"This form must be reviewed not later than one year after it is signed and at least yearly thereafter."
Is form for end of life, diagnosis six months or less to live (thus no annual review needed), or completion at any time?
Who reviews, how reviewed, who initiates review?

"A form that is not reviewed under these time frames expires on the date that is one year and one day from the date it was signed or last reviewed, as applicable, as specified in section G. of the form."
What happens to expired forms?

"this form must be reviewed when you are transferred from one care setting or care level to another or there is a substantial change in your health status"
Who reviews, how reviewed, who initiates review?
How is current form kept clear for patients who use doctors and facilities in two states? (e.g., very common in Greater Cincinnati)

"A new MOLST form must be completed if you wish to make a substantive change to your treatment goals"
How, with whom?
How is new form clear, with all revoked forms to be retained?

Revocation of the MOLST form

This form may be revoked at any time and in any manner that communicates the intent to revoke. If you are under 18 years of age, your parent, guardian, or legal custodian may revoke a

MOLST form at any time and in any manner that communicates the intent to revoke. A MOLST form that was revoked will be retained in your medical record pursuant to Ohio Revised Code section 2133.3 8.

"A MOLST form that was revoked will be retained in your medical record"
How are revoked forms and current version clear?
If revoked at one facility, how revoked at all facilities where a copy may exist?

Portability of the MOLST form

This form must be sent with you when you are transferred between facilities or are discharged. Use of the original form is strongly encouraged, although photocopies and facsimiles are legal and valid. The HIPAA Privacy Rule permits disclosure of the form to health care professionals for treatment purposes.

"Use of the original form is strongly encouraged, although photocopies and facsimiles are legal and valid"
Unclear how current version identifiable if copies in multiple locations

Sec. 2133.32. The department of health shall make a version of the MOLST form available on the department's internet web site. The form shall be made available in a format that can be downloaded free of charge and reproduced.

Sec. 2133.33. A physician, physician assistant, certified nurse practitioner, or clinical nurse specialist may issue medical orders for life-sustaining treatment for a patient by completing a MOLST form. Medical orders for life-sustaining treatment are not for everyone; they are only for an individual with a serious illness or frailty, for whom a health care professional would not be surprised if the individual died within one year. Completion of a MOLST form is always voluntary.

"a physician, physician assistant, certified nurse practitioner, or clinical nrse specialist"
MOLST orders - critical life ending decisions - not issued by attending physician.

"serious illness"
Serious illness could still mean years of life.

"frailty" and "would not be surprised if individual died within a year"
Highly subjective – no documented medical reasons for this diagnosis required of attending physician.

"always voluntary"
If always voluntary, why put MOLST in statute where it can be deemed legal and required?

Once completed and signed in accordance with sections 2133.34 and 2133.35 of the Revised Code, a MOLST form is valid and the instructions in it become operative and govern how the patient who is the subject of the form is to be treated with respect to hospitalization, administration or withdrawal of life-sustaining treatment and comfort care, administration of CPR, and any other medical treatment specified on the form.

"withdrawal of life-sustaining treatment and comfort care"
Comfort care 1) is always to be administered to patient until death; 2) also here by definition can include withdrawal of food and water, which is basic not extraordinary care, plus withdrawal of basic medications (2133.30 (E) 1 & 2).
Could lead to euthanasia.

At all times, the issuance of medical orders for life-sustaining treatment shall be guided by prudent medical practice and standards.

"prudent medical practice"
Subjective – no statement that guided by goal to protect and sustain life"

Sec. 2133.34. A completed MOLST form shall be signed as follows:

(A) By the issuing practitioner, who shall sign and date the form in the space designated for the practitioner's signature;

"issuing practitioner"
Not attending physician

(B) Except as provided in division (C) of this section, by the patient, who shall sign and date the form in the space designated for the patient's signature.

(C)(1) If a guardian has been appointed for the patient, the guardian may sign and date the form on the patient's behalf in the space designated for such signature.

(2) If an attorney in fact under a durable power of attorney for health care is making health care decisions for the patient pursuant to section 1337.13 of the Revised Code, the attorney in fact may sign and date the form on the patient's behalf in the space designated for such signature.

(3) If a patient is under eighteen years of age, the patient's parent, guardian, or legal custodian may sign and date the form in the space designated for such signature.

(4) If a patient is at least eighteen years of age, incapacitated, and neither division (B)(1) or (2) of this section applies, an individual in the descending order of priority specified in division (B)(2) to (6) of section 2133.08 of the Revised Code may sign and date the form on the patient's behalf in the space designated for such signature.

(D) If the issuing practitioner has delegated to another individual the responsibility for completing the form, that individual shall sign and date the form in the space designated for such signature.

"delegating to another individual the responsibility for completing the form"
Even more removed from attending physician for life-ending decision making.

Sec. 2133.35. If a parent, guardian, or legal custodian signs a MOLST form for a patient under the age of eighteen years of age as described in division (C)(4) of section 2133.34 of the Revised Code, that individual shall not indicate instructions that would result in the withholding of medically indicated treatment , as defined in section 14 of the "Child Abuse Prevention, Adoption, and Family Services Act of 1988," 102 Stat. 117 (1988), 42 U.S.C. 5106g, as amended.

Sec. 2133.36. A completed MOLST form shall be placed in the paper or electronic medical record of the patient to whom it pertains. Whether maintained as part of a paper or electronic medical record, the form shall be readily available and retrievable.

"Whether maintained as part of a paper or electronic medical record, the form shall be readily available and retrievable."

Unclear how

Sec. 2133.37. (A) If a patient with a MOLST form is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of, and send a copy of, the form to the receiving facility prior to the transfer. The copy may be sent by regular mail, facsimile, or other electronic means. A copy of the form is the same as the original.

(B) Consistent with section 2133.36 of the Revised Code, the copy of the MOLST form shall be placed in the patient's medical record immediately on receipt by the receiving facility. After admission, the attending physician shall review the MOLST form.

(C) If a person who possesses a MOLST form or for whom a MOLST form has been issued is treated or transferred by emergency services personnel, the emergency services department or unit with which the emergency services personnel is affiliated shall retain a copy of the form.

How will emergency personnel obtain the form? How will they know it is the correct version?

Sec. 2133.38. The patient, the patient's authorized representative described in division (C)(1), (2), or (4) of section 2133.34 of the Revised Code, 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 and in any manner that communicates the intent to revoke. A revoked MOLST form shall be retained in the patient's medical record.

Sec. 2133.39. A MOLST form shall be reviewed not later than one year after it is signed and at least yearly thereafter, as indicated in section G. of the form. A MOLST form does not expire except under the following circumstances:

If MOLST intended for those deemed with less than six months to live, why annual review?
Who will perform the review?
How is review initiated and scheduled?

(A) A form that is not reviewed in the one-year period from the date it was signed or the last date it was reviewed expires on the date that is one year and one day from the date it was signed or last reviewed.

Expired forms are retained along with current.

(B) A form that is revoked in accordance with section 2133.38 of the Revised Code expires on the date of revocation.

Sec. 2133.40. If emergency services personnel, as defined in section 2133.21 of the Revised Code, determine in an emergency situation that either of the following applies, the emergency services personnel shall proceed to treat the patient as directed, verbally or in writing, by a physician or, if applicable, the cooperating physician advisory board of the emergency medical service organization with which the emergency services personnel is affiliated:

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

(1) A do-not-resuscitate order that applies to the patient;

(2) A general consent to treatment form signed by or on behalf of the patient;

(3) A declaration executed by the patient;

(4) A durable power of attorney for health care executed by the patient.

(B) The section of the MOLST form that relates to the patient's treatment in that emergency situation has not been completed.

Sec. 2133.41. In an emergency situation, emergency services personnel are not required to search a person to determine if the person is the subject of a MOLST form. If a person is the subject of a MOLST form, if emergency services personnel or emergency department personnel provide care to the person in an emergency situation, and if, at that time, the personnel do not know and do not have reasonable cause to believe that the person is the subject of a MOLST form, the emergency services personnel are not subject to any of the following associated with providing care that is in accordance with applicable law:

(A) Criminal prosecution;

(B) Liability for damages in a tort or other civil action for injury, death, or loss to person or property;

(C) Professional disciplinary action.

Sec. 2133.42. No health care facility, health care professional, emergency services person, or other individual who provides care to a person under the direction of or with the authorization of a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist in an emergency situation, at the person's residence or in public, or at a health care facility shall be subject to any of the following, as applicable, if the care is provided in good faith and in accordance with, or otherwise complies with, a valid MOLST form or sections 2133.31 to 2133.48 of the Revised Code:

(A) Criminal prosecution;

(B) Liability for damages in a tort or other civil action for injury, death, or loss to person or property;

(C) Professional disciplinary action.

Sec. 2133.43. 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.

Sec. 2133.44. The issuance or nonissuance of a MOLST form shall not do any of the following:

(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;
(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;

(C) Impair or invalidate a policy of life insurance or annuity or any health benefit plan.

Sec. 2133.45. 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.

Sec. 2133.46. (A) Subject to division (B) of this section, an attending physician of a patient or a health care facility in which a patient is located may refuse to comply or allow compliance with one or more instructions in a MOLST form on the basis of conscience or on another basis. An employee of an attending physician or of a health care facility in which a patient is located may refuse to comply with one or more instructions in a MOLST form on the basis of a matter of conscience.

(B) An attending physician of a patient who, or a health care facility in which a patient is confined that, is not willing or not able to comply or allow compliance with one or more instructions in a MOLST form shall immediately notify the patient or person who has signed the MOLST form on the patient's behalf under section 2133.34 of the Revised Code, and shall not prevent or attempt to prevent, or unreasonably delay or attempt to unreasonably delay, the transfer of the patient to the care of a physician who, or a health care facility that, is willing and able to so comply or allow compliance.

Not a conscience clause.
"shall not prevent or attempt to prevent"
How would this actually work in practice – what would a facility or an attending physician unwilling or unable to comply with the MOLST do?
Wouldn't they have to refer to another facility or physician?
If so, this would still keep the facility or practitioner complicit in a morally objectionable act.
Example problems when indicating on MOLST treatment for unanticipated/unpredictable circumstances:
What if a patient has indicated on a MOLST against "artificial or technologically administered" food and water, then is admitted severely undernourished and physician knows immediate food and water could restore their life?
Same if deny mechanical ventilation, then patient in an automobile accident and a physician knows a ventilator might restore life?

Sec. 2133.47. In the absence of actual knowledge to the contrary and if acting in good faith, an attending physician, other health care professional, emergency services person, or health care facility may assume that a MOLST form complies with sections 2133.31 to 2133.46 of the Revised Code and is valid.

"may assume … is valid"
No validation procedure. Then why require a valid version at all?

Sec. 2133.48. Not later than sixty months after the effective date of this section, the director of health shall appoint a MOLST task force to perform a five-year review of medical orders for life-sustaining treatment and the MOLST form. Task force members shall be, or represent, persons or government entities that have experience with medical orders for life-sustaining treatment or the MOLST form. Not later than seventy-two months after the effective date of this section, the task force shall submit a report of its findings to the general assembly in accordance with section 101.68 of the Revised Code.

Members of the task force shall serve without compensation, but may be reimbursed for necessary expenses.

A relaunch of Honoring Wishes Task Force that has been in existence for over 10 years?
Why necessary?

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

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

(B) Prohibit or preclude health care personnel acting under the direction of a person authorized to prescribe a patient's treatment and who carry out the responsibility to provide comfort care to the patient in good faith and while acting within the scope of their authority from dispensing, administering, or causing to be administered any particular medical procedure, treatment, intervention, or other measure to the patient, including, but not limited to, personally furnishing, administering, or causing to be administered by judicious titration or in another manner any form of medication,

for the purpose of diminishing the patient's pain or discomfort and not for the purpose of postponing or causing the patient's death, even though the medical procedure, treatment, intervention, or other measure may appear to hasten or increase the risk of the patient's death;

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

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

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

(F) Affect or limit the authority of a person to refuse to give informed consent to health care, including through the execution of a durable power of attorney for health care under sections 1337.11 to 1337.17 of the Revised Code, the execution of a declaration under sections 2133.01 to 2133.15 of the Revised Code, the completion of a MOLST form under sections 2133.30 to 2133.48 of the Revised Code, or authorizing the withholding or withdrawal of CPR under sections 2133.21 to 2133.26 2133.29 of the Revised Code.

Sec. 4730.20. (A) A physician assistant licensed under this chapter may perform any of the following services authorized by the supervising physician that are part of the supervising physician's normal course of practice and expertise:

(1) Ordering diagnostic, therapeutic, and other medical services;

(2) Prescribing physical therapy or referring a patient to a physical therapist for physical therapy;

(3) Ordering occupational therapy or referring a patient to an occupational therapist for occupational therapy;

(4) Taking any action that may be taken by an attending

physician under sections 2133.21 to 2133.26 2133.29 of the Revised Code, as specified in section 2133.211 of the Revised Code;

(5) Determining and pronouncing death in accordance with section 4730.202 of the Revised Code;

(6) Assisting in surgery;

(7) If the physician assistant holds a valid prescriber number issued by the state medical board and has been granted physician-delegated prescriptive authority, ordering, prescribing, personally furnishing, and administering drugs and medical devices;

(8) Any other services that are part of the supervising physician's normal course of practice and expertise.

(B) The services a physician assistant may provide under the policies of a health care facility are limited to the services the facility authorizes the physician assistant to provide for the facility. A facility shall not authorize a physician assistant to perform a service that is prohibited under this chapter. A physician who is supervising a physician assistant within a health care facility may impose limitations on the physician assistant's practice that are in addition to any limitations applicable under the policies of the facility.

Sec. 4765.35. (A) A first responder shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it.

(B) A first responder may provide limited emergency medical services to patients until the arrival of an emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic. In an emergency, a first responder may render emergency medical services such as opening and maintaining an airway, giving mouth to barrier ventilation, chest compressions, electrical interventions with automated defibrillators to support or correct the cardiac function and other methods determined by the board, controlling of hemorrhage, manual stabilization of fractures, bandaging, assisting in childbirth, and determining triage of trauma victims.

(C) A first responder may perform any other emergency medical services approved pursuant to rules adopted under section 4765.11 of the Revised Code. The board shall determine

whether the nature of any such service requires that a first responder receive authorization prior to performing the service.

(D)(1) Except as provided in division (D)(2) of this section, if the board determines under division (C) of this section that a service requires prior authorization, the service shall be performed only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician, physician assistant designated by a physician, or registered nurse designated by a physician.

(2) If communications fail during an emergency situation or the required response time prohibits communication, a first responder may perform services subject to this division, if, in the judgment of the first responder, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the written protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the first responder is affiliated.

(E) Nothing in this section or any other provision in Chapter 4765. of the Revised Code prohibits a first responder from complying with a valid MOLST form issued under section 2133.33 of the Revised Code or otherwise complying with sections 2133.31 to 2133.48 of the Revised Code.

Sec. 4765.37. (A) An emergency medical technician-basic shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it by the state board of emergency medical, fire, and transportation services.

(B) An emergency medical technician-basic may operate, or be responsible for operation of, an ambulance and may provide emergency medical services to patients. In an emergency, an EMT-basic may determine the nature and extent of illness or injury and establish priority for required emergency medical services. An EMT-basic may render emergency medical services such as opening and maintaining an airway, giving positive pressure ventilation, cardiac resuscitation, electrical interventions with automated defibrillators to support or correct the cardiac function and other methods determined by the board, controlling of hemorrhage, treatment of shock, immobilization of fractures,

bandaging, assisting in childbirth, management of mentally disturbed patients, initial care of poison and burn patients, and determining triage of adult and pediatric trauma victims. Where patients must in an emergency be extricated from entrapment, an EMT-basic may assess the extent of injury and render all possible emergency medical services and protection to the entrapped patient; provide light rescue services if an ambulance has not been accompanied by a specialized unit; and after extrication, provide additional care in sorting of the injured in accordance with standard emergency procedures.

(C) An EMT-basic may perform any other emergency medical services approved pursuant to rules adopted under section 4765.11 of the Revised Code. The board shall determine whether the nature of any such service requires that an EMT-basic receive authorization prior to performing the service.

(D)(1) Except as provided in division (D)(2) of this section, if the board determines under division (C) of this section that a service requires prior authorization, the service shall be performed only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician, physician assistant designated by a physician, or registered nurse designated by a physician.

(2) If communications fail during an emergency situation or the required response time prohibits communication, an EMT-basic may perform services subject to this division, if, in the judgment of the EMT-basic, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the EMT-basic is affiliated.

(E) Nothing in this section or any other provision in Chapter 4765. of the Revised Code prohibits an EMT-basic from complying with a valid MOLST form issued under section 2133.33 of the Revised Code or otherwise complying with sections 2133.31 to 2133.48 of the Revised Code.

Sec. 4765.38. (A) An emergency medical technician-intermediate shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it.

(B) An EMT-I may do any of the following:

(1) Establish and maintain an intravenous lifeline that has been approved by a cooperating physician or physician advisory board;

(2) Perform cardiac monitoring;

(3) Perform electrical interventions to support or correct the cardiac function;

(4) Administer epinephrine;

(5) Determine triage of adult and pediatric trauma victims;

(6) Perform any other emergency medical services approved pursuant to rules adopted under section 4765.11 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, the services described in division (B) of this section shall be performed by an EMT-I only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician, physician assistant designated by a physician, or registered nurse designated by a physician.
(2) If communications fail during an emergency situation or the required response time prohibits communication, an EMT-I may perform any of the services described in division (B) of this section, if, in the judgment of the EMT-I, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the EMT-I is affiliated.

(D) In addition to, and in the course of, providing emergency medical treatment, an emergency medical technician-intermediate may withdraw blood as provided under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. An emergency medical technician-intermediate shall withdraw blood in accordance with this chapter and any rules adopted under it by the state board of emergency medical, fire, and transportation

services.

(E) Nothing in this section or any other provision in Chapter 4765. of the Revised Code prohibits an EMT-I from complying with a valid MOLST form issued under section 2133.33 of the Revised Code or otherwise complying with sections 2133.31 t o 2133.48 of the Revised Code.

Sec. 4765.39. (A) An emergency medical technician-paramedic shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it.

(B) A paramedic may do any of the following:

(1) Perform cardiac monitoring;

(2) Perform electrical interventions to support or correct the cardiac function;

(3) Perform airway procedures;

(4) Perform relief of pneumothorax;

(5) Administer appropriate drugs and intravenous fluids;

(6) Determine triage of adult and pediatric trauma victims;

(7) Perform any other emergency medical services, including life support or intensive care techniques, approved pursuant to rules adopted under section 4765.11 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, the services described in division (B) of this section shall be performed by a paramedic only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician, physician assistant designated by a physician, or registered nurse designated by a physician.

(2) If communications fail during an emergency situation or the required response time prohibits communication, a paramedic may perform any of the services described in division (B) of this section, if, in the paramedic's judgment, the life of the patient is in immediate danger. Services performed under

these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the paramedic is affiliated.

(D) In addition to, and in the course of, providing emergency medical treatment, an emergency medical technician-paramedic may withdraw blood as provided under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. An emergency medical technician-paramedic shall withdraw blood in accordance with this chapter and any rules adopted under it by the state board of emergency medical, fire, and transportation services.

(E) Nothing in this section or any other provision in Chapter 4765. of the Revised Code prohibits an emergency medical technician-paramedic from complying with a valid MOLST form issued under section 2133.33 of the Revised Code or otherwise complying with sections 2133.31 to 2133.48 of the Revised Code.

Section 2. That existing sections 2133.02, 2133.21, 2133.211, 2133.23, 2133.24, 2133.25, 2133.26, 3795.03, 4730.20, 4765.35, 4765.37, 4765.38, and 4765.39 and section 2133.22 of the Revised Code are hereby repealed.