

*Department of Health*  
*Nursing Care Quality Assurance Commission*

# Advisory Opinion

The Nursing Care Quality Assurance Commission (NCQAC) issues this advisory opinion in accordance with WAC 246-840-800. An advisory opinion adopted by the NCQAC is an official opinion about safe nursing practice. The opinion is not legally binding and does not have the force and effect of a duly promulgated regulation or a declaratory ruling by the NCQAC. Institutional policies may restrict practice further in their setting and/or require additional expectations to assure the safety of their patient and/or decrease risk.

<i>Title:</i>	Physician's Order for Life Sustaining Treatment (POLST): Scope of Practice for Registered Nurses, Licensed Practical Nurses, and Nursing Assistants	<i>Number:</i> NCAO 5.1
<i>References:</i>	<a href="#">RCW 18.79 Nursing Care</a> <a href="#">WAC 246-840 Practical and Registered Nursing</a> <a href="#">RCW 70.122 Natural Death Act</a> <a href="#">RCW 18.71.210 Emergency Medical Service Personnel - Liability</a> <a href="#">RCW 18.73 Emergency Medical Care and Transportation Services</a> <a href="#">RCW 18.88B Long-Term Care Workers</a> <a href="#">RCW 43.70.480 Emergency Medical Personnel- Futile Treatment and Natural Death Directives</a>	
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## Conclusion Statement

The Nursing Commission supports honoring patient choices about end-of-life planning and following medical orders implementing patient decisions. Subjecting patients to unwanted medical treatment is contrary to best practices and nursing principles. The Nursing Commission concludes that registered nurses (RNs) and licensed practical nurses (LPNs) may follow a valid Physician's Order for Life-Sustaining Treatment (POLST) in any setting. The advanced registered nurse practitioner (ARNP), or other authorized health care provider, is responsible for obtaining informed consent and completing the POLST order based on the individual or surrogate wishes.

The NCQAC determines that a Nursing Assistant-Certified (NA-C), Nursing Assistant-Registered (NA-R), and other unlicensed assistive personnel (UAP) may follow the instructions in Section A of the POLST indicating, "Attempt Resuscitation – Perform Cardiopulmonary Resuscitation (CPR)" or "Do Not Attempt Resuscitation (DNAR) – Allow Natural Death," by providing nursing care and using nursing judgment during an emergency. An unresponsive patient or a patient without a pulse is considered an emergency situation. Nursing assistants may follow orders in Sections B and D of a valid POLST under the direction and supervision of a RN or LPN. The Nursing Commission does not have

authority to define scope of practice for Certified-Home Care Aides (C-HCAs) – the Secretary of Health has authority to write rules defining the scope of practice for C-HCAs.

Nurses and nursing assistants should be aware that following a POLST is similar to carrying out any other medical order – there is no legal immunity (except for emergency responders), and healthcare providers are accountable for following the standard of care.

## **Background and Analysis**

### **Request for Analysis**

The Nursing Commission received a formal request from the Washington State Department of Social and Health Services (DSHS) as to whether current standards of practice for NA-Cs, NA-Rs, and C-HCAs allow them to follow doctor's orders to independently implement a "no CPR" order, including a POLST. In 2012, DSHS issued letters to nursing homes, adult family homes, and assisted living facilities regarding concerns about the lack of immunity and indicated that following a POLST would most likely be out of the scope of practice for UAP (including nursing assistants and C-HCAs). Anecdotal information indicates some difficulties in honoring POLST in non-traditional health care settings (such as community-based settings). The Washington State DSHS Developmental Disabilities Administration (DDA) established policies for community residential services providers regarding POLST requiring the residential service to provider obtain written approval from DDA to implement a POLST. DSHS anticipates revising its guidance on POLST in 2015, including approving continuing education for residential care facility staff and providing revised guidance to residential care facilities.

### **Overview of POLST**

A POLST is a portable medical order form that summarizes a patient's wishes for end of life treatment and describes a patient's code directions. The POLST is intended to complement, not replace, a patient's advance directive. It turns the patient's wishes in the advance directive into medical orders which may be followed by healthcare providers. It must be signed by an authorized healthcare provider (ARNP, physician, or physician assistant) as well as the patient or surrogate decision maker. RNs and LPNs may discuss and explain the POLST and the decisions it contains with the patient or the patient's surrogate.

The purpose of having a POLST is to improve communication of patient decisions to accept or decline medical intervention and life-sustaining treatment, in any health care setting, to ensure these decisions are honored when the patient cannot communicate. Section A of the POLST contains instructions on the patient's code status, including "CPR/Attempt Resuscitation" or "DNAR/Do not attempt Resuscitation (Allow Natural Death)." Section B of a POLST includes orders on medical interventions, including use of oxygen, suction, IV fluids, airway support and advanced interventions such as intubation, mechanical ventilation and other intensive care-related procedures. Section D includes non-emergency treatment decisions including whether the patient should receive antibiotics, medically assisted nutrition and hydration, and dialysis.

The POLST is intended to go with the patient from one healthcare setting to another to assure the patient receives care consistent with their healthcare decisions. There are many settings where a patient may have a POLST. Examples include hospitals, nursing homes, community-based settings (adult family homes, residential homes, and assisted living facilities), hospice, in-home settings, correctional facilities, and schools.

## Legal Context

The nursing and nursing assistant law and rule do not explicitly address POLST. The Department of Health has established guidelines related to emergency medical personnel (licensed or authorized under [RCW 18.73](#)) for someone with a POLST ([RCW 43.70.480](#)). Emergency medical personnel have legal immunity protection for all care they provide, including care following a POLST order. [RCW18.71.210](#).

The Washington Natural Death Act provides immunity for caregivers following an advance directive. [RCW 70.122.051](#). If the advance directive and POLST are consistent, caregivers should have legal immunity when following a POLST order. If there is no advance directive, caregivers should honor the POLST order as they would follow any other medical order.

## Caregiver Credentialing and POLST

Individuals who hold a nursing assistant credential may work under that credential or work as unlicensed assistive personnel, depending on whether they are working under the direction and supervision of an RN or LPN. If they have RN or LPN supervision, the nursing assistant is working under that credential. This occurs in many settings, including hospitals, nursing homes, community-based settings, hospice, and in-home care settings. Without nursing supervision, nursing assistants are not working under that credential. This occurs in settings where RN or LPN supervision is not available, such as home based or residential care facilities.

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

Nursing assistants and other UAP may not perform tasks that require nursing judgment ([WAC 246-841-405](#)) **except in emergency situations** ([RCW 18.79.240 \(1\) \(a\) \(b\)](#), [WAC 246-840-010 \(7\) \(b\)](#)). [WAC 246-841-400](#) identifies core competencies for nursing assistants that include taking vital signs (blood pressure, pulse, respirations and temperature). It also allows nursing assistants with demonstrated proficiency in CPR to perform CPR independently (without delegation). Because nursing assistants may take vital signs, they may independently determine that a patient has no pulse.

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

Sections B and D of a POLST may indicate medical interventions outside the scope of a nursing assistant. Some activities identified in the POLST Section B and D may be delegated to nursing assistants depending on the task, equipment available, and competency of the nursing assistant. RNs and LPNs may delegate tasks of nursing care if the nurse determines it is in the best interest of the patient ([RCW 18.79.260 \(3\)](#)) following the delegation process.

While ARNPs, RNs, and LPNs may determine or pronounce death, this is not within the nursing assistant's scope of practice ([WAC 245-840-830](#)).

The Nursing Commission does not have authority regarding scope of practice for C-HCAs (regulated by [RCW 18.88B.010](#)). The Secretary of Health does have the authority to write rules to describe the scope of practice for the C-HCAs and may include in their rules the C-HCAs ability to follow a person's wishes in section A of the POLST and their ability to be delegated specific tasks identified in the other sections of the POLST, similar to the NA-C or NA-R. C-HCAs are considered UAPs, and in an emergency situation may use nursing judgment to assess if the patient is unresponsive or has no heartbeat.

## **Recommendations**

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

### **Steps Facilities Should Take to Honor POLST**

- Develop institutional policies and procedures relevant to POLST and advance directives.
- Address the existence of advance directives and/or POLST in the plan of care for all patients and residents, including those individuals not receiving nursing care. POLST orders should be reviewed as they arrive with the patient – they should *not* be routinely re-written as part of admission processes.
- Review the POLST if the patient is transferred from one care setting or care level to another; if there is substantial change in the patient's health status; or if the patient's or decision-maker's treatment preferences change.
- Direct that discussions about the appropriateness of the POLST or making significant changes to a POLST should include the patient's medical provider, the patient and surrogate decision-maker, and key family members. These discussions should include a review of the patient's medical history and recommendations from treating providers.
- Make sure supervising nursing staff provides instruction to nursing assistants on each patient's plan of care, including guidance on calling for help during an emergency.
- The patient's plan of care should specify if the patient should not receive CPR under any circumstances (including choking, aspiration, or accident) due to advanced dementia, osteoporosis, or other contra-indication to chest compressions or other resuscitative efforts. Conduct training for supervising staff and bedside personnel in recognizing and following POLST orders, as appropriate for their credentials.
- Consider whether individual staff members may have a conscientious objection to carrying out POLST instructions and how to accommodate them.

### **Recommendations for Policies at the Time Patient is Admitted**

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

- Review the form for completeness, and confirm with the patient or decision-maker that the POLST form has not been revoked or superseded by a subsequent POLST (Note: Photocopies and faxes of signed POLST forms are legal and valid and copies may be made for records and disclosed to other providers caring for the patient).

- Document the time and date, the parties involved, essence of the conversation, and any follow-up plans.
- POLST orders should **not** be routinely re-written when a patient is admitted--obtain a counter-signature on the original POLST by a provider with facility privileges, if needed.
- Place a paper copy or scanned copy of the original document (marked "copy") in the medical record.
- Prominently display the original POLST document in an easily accessible and visible location.
- Move the original POLST form from one setting to another, accompanying the patient.
- Within a reasonable time of admission, require review of the POLST by the facility or institution's interdisciplinary team; consider if the order is appropriate for the patient's current medical condition and known end of life wishes, whether there is a conflict with institutional policy; discuss issues; and resolve as soon as possible.
- Consider if this patient has contra-indications to CPR which mean a DNAR should be honored even in cases of choking or accidents. Patients may have advanced dementia, osteoporosis, severe bleeding disorders or other conditions in which CPR interventions cause more harm than benefit to the patient. Note "DNAR-no exceptions" in Section A of the patient's POLST, initialed by a healthcare provider authorized to sign the POLST.
- Mark all voided versions as "void" in large letters.
- If a POLST has been voided or if changes are needed, notify the patient's medical provider as soon as possible upon requests for changes to the POLST.
- Consider plans for transfer to an appropriate setting when comfort measures or other required care is not available or not within the scope of practice of the nurse, nursing assistant or other UAP in the current setting.
- Read the **Directions for Health Care Professionals** on the back of the POLST.

### **Recommendations for Policies at the Time of an Event Occurs**

The NCQAC recommends the following steps when a patient is found not responsive or has no heartbeat:

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

## Conclusion

The Nursing Commission concludes that RNs and LPNs may follow the directions in a POLST up to their scope of practice. The NCQAC also concludes that nursing assistants may perform tasks that require nursing judgment in emergency situations. A nonresponsive patient, or a patient without a pulse, presents an emergency, for purposes of nursing judgment, even if the patient's death is expected. Therefore a nursing assistant and other UAP may use nursing judgment to follow instructions in Section A of the POLST indicating "CPR/Attempt Resuscitation" or "DNAR /Do Not Attempt Resuscitation (Allow Natural Death)" when a patient is nonresponsive or has no heartbeat. The Nursing Commission also concludes that nursing assistants may follow the directions in sections B and D of a POLST within their core competencies under the direction and supervision of a RN or LPN or through the delegation process, as appropriate. Nursing assistants may not determine or pronounce death.

## References

[Washington DSHS 2012 Dear Administrator Letters Regarding POLSTs - Adult Family Homes, Assisted Living Facilities, and Nursing Homes](#)

[Washington State Department of Social and Health Service Operational Reporting Requirements for Residential Services Providers \(Policy 6.09\) 2013](#)

[Washington State Department of Health - POLST Information](#)

[Washington State Medical Association - POLST Information](#)

[Leading Age POLST Information](#)