

DEPARTMENT OF HEALTH AND HUMAN SERVICES

POLICY AND PLANNING ADMINISTRATION

MICHIGAN PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

Filed with the secretary of state on June 10, 2022

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of health and human services by sections 2226, 2233, and 5676 of the public health code, 1978 PA 368, MCL 333.2226, 333.2233, and 333.5676)

R 325.81, R 325.82, R 325.83, R 325.84, R 325.85, R 325.86, and R 325.87 are added to the Michigan Administrative Code, as follows:

R 325.81 Definitions.

Rule 81. (1) As used in these rules:

(a) "Advanced illness" means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation.

(b) "Attending health professional" means a physician, physician's assistant, or certified nurse practitioner, who has primary responsibility for the treatment of a patient and is authorized to issue the orders on a MI-POST form.

(c) "Change in level of care or care setting" results from a formal healthcare or needs assessment, or both, that supports the increase or decrease in care services required to provide a safe and least restrictive setting for the patient. A change in care setting does not refer to reassignments within the same facility.

(d) "Department" means the department of health and human services.

(e) "Emergency medical services personnel" or "EMS personnel" means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904, but does not include an emergency medical services instructor-coordinator.

(f) "Guardian" means a person with the powers and duties to make medical treatment decisions on behalf of a patient to the extent granted by court order under section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(g) "Patient advocate" means an individual presently authorized to make medical treatment decisions on behalf of a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(h) "Patient representative" means a patient advocate or a guardian.

(i) "Physician orders for scope of treatment form" or "MI-POST" means a form created by the department to be used as part of an advance care planning process that, with medical orders, reflect both the patient's expressed wishes or best interests and the attending health professional's medical advice or recommendation. A MI-POST is not an advance health care directive.

(2) A term defined in the code has the same meaning when used in these rules.

R 325.82 General Rules.

Rule 82. (1) MI-POST is intended only for those adult patients with advanced illness or frailty for whom, based on his or her current medical condition, death would occur within 1 year. A healthcare professional's prognosis of life expectancy is not required.

(2) MI-POST cannot be required for admission to any healthcare or community facility setting.

(3) The standard form must be printed on pink 65-pound card stock, white card stock paper with a pink border, or paper of similar style and quality to make the form easily identifiable.

(4) The department must make available electronic blank copies.

(5) The original form in its most current version remains the property of the individual patient. Copies, including paper, facsimile, and all digital versions, are permissible and valid. Health care facilities and physician offices must retain the most current copy of the patient's MI-POST form in the patient's medical record.

(6) The MI-POST is binding in any health care facility other than acute care. Acute care settings shall utilize the MI-POST as evidence of the patient's healthcare decisions when evaluating the patient; however, treatments may differ according to the best clinical judgement of the healthcare professional currently treating the patient.

(7) The MI-POST directs the care provided by EMS. EMS must follow the protocol established by the department.

(8) Forms labeled "Michigan POST" or "MI-POST" are valid from 1 year of the most recent attending health professional signature date.

(9) MI-POST forms completed after June 30, 2023 must be completed on the MI-POST form created under the act.

(10) Orders indicated on a properly executed MI-POST are presumed to express the patient's current decisions over a previously executed advanced directive.

(11) If a MI-POST is validly executed after a do-not-resuscitate order is executed under the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067, the medical orders indicated on the MI-POST are presumed to express the patient's current wishes.

R 325.83 Completing the MI-POST.

Rule 83. (1) Prior to signing the MI-POST, the attending health professional must address the following with the patient:

(a) The patient information sheet regarding the MI-POST must be reviewed, signed, and placed in the patient's permanent medical record.

(b) If the patient does not have a patient representative, the attending health professional shall recommend to the patient that the patient consider designating an individual to serve as patient advocate to make future medical decisions on behalf of the patient if the patient becomes unable to do so.

(2) A valid MI-POST must be signed by both:

(a) The patient, or the patient representative.

(b) The attending health professional.

(3) Either verbal or telephone medical orders are acceptable per policy and scope of practice, subject to all the following:

(a) The preparer shall complete the name, date, phone number, and, if applicable, name of collaborating physician and that physicians' phone number.

(b) On the signature line, the form preparer must insert "verbal order" or "telephone order".

(c) Within 10 calendar days, the attending health professional shall strikethrough "verbal order" or "telephone order" and sign and date the MI-POST form.

(4) The MI-POST is valid for 1 year from the date the order is authorized by the attending health professional.

R 325.84 Reaffirming or Revoking the MI-POST; General.

Rule 84. (1) The MI-POST may be reaffirmed or revoked under either of the following circumstances:

(a) 1 year from the date since the form was last signed or reaffirmed.

(b) 30 days from a change in the patient's attending health professional; or a change in the patient's place of care, level of care, or care setting; or an unexpected change in the patient's medical condition.

(2) The MI-POST can be reaffirmed or revoked by the patient or the patient representative at any time and in any manner that the patient or the patient representative is able to communicate.

(3) If the patient's revocation is not in writing, an individual who witnesses the patient's expressed intent to revoke the MI-POST shall describe in writing the circumstances of the revocation. This document must be signed by the witness and provided to the attending health professional, the health care facility, and the patient.

R 325.85 Reaffirming the MI-POST.

Rule 85. (1) The MI-POST must be signed and dated by the attending health professional and the patient or patient representative on the corresponding affirmation line.

(2) The form must be reaffirmed if a previously blank section in the form is completed.

(3) Changes may not be made to previously completed sections. If changes are needed, a new MI-POST must be completed.

R 325.86 Revoking the MI-POST.

Rule 86. (1) When revoking the MI-POST, the attending health professional or the patient or the patient's representative shall write "revoked" over the most recent signatures of the patient or patient representative and the attending health professional.

(2) The individual revoking the form shall write "void" in large, bold ink diagonally across both sides of the form.

(3) If the patient or patient representative revokes the MI-POST, reasonable action must be taken to notify at least 1 of the following:

(a) The attending health professional.

(b) The health professional who is treating the patient.

(c) The health facility responsible for the medical treatment of the patient.

(4) If a change in the patient's medical condition makes the medical orders on the MI-POST contrary to generally accepted health care standards, the attending health professional may revoke the MI-POST form. If an attending health professional revokes a MI-POST under this

subrule, he or she shall take reasonable actions to notify the patient or the patient representative of the revocation and the change in the patient's medical condition that warranted the revocation of the MI-POST.

(5) The patient representative may revoke the MI-POST at any time the patient representative considers revoking the MI-POST to be consistent with the patient's wishes or, if the patient's wishes are unknown, in the patient's best interest.

R 325.87 Compliance with MI-POST Form.

Rule 87. EMS will treat patients according to the orders on a MI-POST per department-approved MI-POST emergency medical protocol unless any of the following apply:

(a) The services being provided are the result of an injury or medical condition that is unrelated to the diagnosis or medical condition that is indicated on the patient's MI-POST.

(b) The valid MI-POST requests the initiation of resuscitation if the patient suffers cessation of both spontaneous respiration and circulation, and the emergency medical services personnel has actual notice of a do-not-resuscitate order that was executed under the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067, after the MI-POST was validly executed.

(c) The valid MI-POST has been revoked and EMS has actual notice of the revocation.