

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 601

Representative Wachtmann

**Cosponsors: Representatives Goodwin, Newcomb, Fessler, Yuko, Combs,
Collier, Huffman, Mallory**

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A B I L L

To amend sections 2133.21, 2133.22, 2133.23, 2133.24, 1
and 2133.26, to enact sections 2133.212 and 2
2133.30 to 2133.48, and to repeal section 2133.25 3
of the Revised Code to require the Director of 4
Health to prescribe a form to document medical 5
orders for life-sustaining treatment and to make 6
changes to the law governing DNR identification 7
and orders. 8

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

Section 1. That sections 2133.21, 2133.22, 2133.23, 2133.24, 9
and 2133.26 be amended and sections 2133.212, 2133.30, 2133.31, 10
2133.32, 2133.33, 2133.34, 2133.35, 2133.36, 2133.37, 2133.38, 11
2133.39, 2133.40, 2133.41, 2133.42, 2133.43, 2133.44, 2133.45, 12
2133.46, 2133.47, and 2133.48 of the Revised Code be enacted to 13
read as follows: 14

Sec. 2133.21. As used in this section and sections ~~2133.21 to~~ 15
2133.211, 2133.22, 2133.24, and 2133.26 of the Revised Code, 16
unless the context clearly requires otherwise: 17

(A) "Attending physician" means the physician to whom a 18

person, or the family of a person, has assigned primary 19
responsibility for the treatment or care of the person or, if the 20
person or the person's family has not assigned that 21
responsibility, the physician who has accepted that 22
responsibility. 23

(B) "CPR" means cardiopulmonary resuscitation or a component 24
of cardiopulmonary resuscitation, but it does not include clearing 25
a person's airway for a purpose other than as a component of CPR. 26

~~(C) "Declaration," "health care facility," "life-sustaining 27
treatment," "physician," "professional disciplinary action," and 28
"tort action" have the same meanings as in section 2133.01 of the 29
Revised Code means a document executed in accordance with section 30
2133.02 of the Revised Code that includes a specific authorization 31
for the use or continuation, or the withholding or withdrawal, of 32
CPR. 33~~

~~(C)~~(D) "DNR identification" means a standardized 34
identification card, form, necklace, or bracelet that is of 35
uniform size and design, that has been approved by the department 36
of health pursuant to section 2133.25 of the Revised Code, and 37
that signifies either one of the following: 38

(1) That the person who is named on and possesses the card, 39
form, necklace, or bracelet has executed a declaration ~~that 40
authorizes the withholding or withdrawal of CPR and that has not 41
been revoked pursuant to section 2133.04 of the Revised Code;~~ 42

(2) That the attending physician of the person who is named 43
on and possesses the card, form, necklace, or bracelet has issued 44
a current do-not-resuscitate order, ~~in accordance with the 45
do-not-resuscitate protocol adopted by the department of health 46
pursuant to section 2133.25 of the Revised Code, for that person 47
and has documented the grounds for the order in that person's 48
medical record;~~ 49

(3) That an issuing practitioner has completed a MOLST form 50
that has not been superseded as described in section 2133.41 of 51
the Revised Code or revoked as described in section 2133.39 of the 52
Revised Code. 53

~~(D)~~(E) "Do-not-resuscitate order" means a directive, other 54
than a hospital do-not-resuscitate order, issued by a physician 55
prior to the effective date of this amendment that identifies a 56
person and specifies that CPR should not be administered to the 57
person so identified. 58

~~(E) "Do not resuscitate protocol" means the standardized~~ 59
~~method of procedure for the withholding of CPR by physicians,~~ 60
~~emergency medical service personnel, and health care facilities~~ 61
~~that is adopted in the rules of the department of health pursuant~~ 62
~~to section 2133.25 of the Revised Code.~~ 63

(F) "Emergency medical services personnel" means paid or 64
volunteer firefighters, law enforcement officers, first 65
responders, emergency medical technicians-basic, emergency medical 66
technicians-intermediate, emergency medical technicians-paramedic, 67
medical technicians, or other emergency services personnel acting 68
within the ordinary course of their profession. 69

~~(G) "CPR" means cardiopulmonary resuscitation or a component~~ 70
~~of cardiopulmonary resuscitation, but it does not include clearing~~ 71
~~a person's airway for a purpose other than as a component of CPR~~ 72
"Health care facility," "life-sustaining treatment," "physician," 73
"professional disciplinary action," and "tort action" have the 74
same meanings as in section 2133.01 of the Revised Code. 75

(H) "Hospital do-not-resuscitate order" means a directive 76
issued by a physician pursuant to section 2133.212 of the Revised 77
Code. 78

(I) "Issuing practitioner" has the same meaning as in section 79
2133.30 of the Revised Code. 80

(J) "MOLST form" means a form completed pursuant to division 81
(A) of section 2133.33 of the Revised Code that includes a 82
specific authorization for the use or continuation, or the 83
withholding or withdrawal, of CPR. 84

Sec. 2133.212. A physician may issue a directive for a person 85
admitted to a hospital that identifies the person and specifies 86
that CPR should not be administered to the person during the 87
relevant hospital stay. A directive issued under this section is 88
valid only for the single hospital stay during which it is made 89
and expires at the time of the patient's discharge from the 90
hospital. 91

At the time of discharge, the patient's physician or an 92
employee or agent of the hospital shall destroy the directive, 93
inform the patient or the patient's representative of such 94
destruction, and explain that a physician, physician assistant, or 95
advanced practice nurse is permitted under section 2133.33 of the 96
Revised Code to issue medical orders for life-sustaining treatment 97
for the patient by completing a MOLST form. 98

Sec. 2133.22. (A)(1) None of the following are subject to 99
criminal prosecution, to liability in damages in a tort or other 100
civil action for injury, death, or loss to person or property, or 101
to professional disciplinary action arising out of or relating to 102
the withholding or withdrawal of CPR from a person who has 103
executed a declaration, for whom a do-not-resuscitate order or 104
hospital do-not-resuscitate order has been issued or MOLST form 105
has been completed, or after DNR identification is discovered in 106
the person's possession and reasonable efforts have been made to 107
determine that the person in possession of the DNR identification 108
is the person named on the DNR identification: 109

(a) A physician who causes the withholding or withdrawal of 110

CPR from the person ~~possessing~~ who has executed a declaration, for 111
whom a do-not-resuscitate order or hospital do-not-resuscitate 112
order has been issued or MOLST form has been completed, or who 113
possesses the DNR identification; 114

(b) A person who participates under the direction of or with 115
the authorization of a physician in the withholding or withdrawal 116
of CPR from the person ~~possessing~~ who has executed a declaration, 117
for whom a do-not-resuscitate order or hospital do-not-resuscitate 118
order has been issued or MOLST form has been completed, or who 119
possesses the DNR identification; 120

(c) Any emergency medical services personnel who cause or 121
participate in the withholding or withdrawal of CPR from the 122
person ~~possessing~~ who has executed a declaration, for whom a 123
do-not-resuscitate order or hospital do-not-resuscitate order has 124
been issued or MOLST form has been completed, or who possesses the 125
DNR identification. 126

(2) None of the following are subject to criminal 127
prosecution, to liability in damages in a tort or other civil 128
action for injury, death, or loss to person or property, or to 129
professional disciplinary action arising out of or relating to the 130
withholding or withdrawal of CPR from a person in a health care 131
facility who has executed a declaration, for whom a 132
do-not-resuscitate order or hospital do-not-resuscitate order has 133
been issued or MOLST form has been completed, or after DNR 134
identification is discovered in the person's possession and 135
reasonable efforts have been made to determine that the person in 136
possession of the DNR identification is the person named on the 137
DNR identification ~~or a do not resuscitate order is issued for the~~ 138
~~person:~~ 139

(a) The health care facility or the administrator of the 140
health care facility; 141

(b) A physician who causes the withholding or withdrawal of 142
CPR from the person ~~possessing who has executed a declaration, for~~ 143
~~whom a do-not-resuscitate order or hospital do-not-resuscitate~~ 144
~~order has been issued or MOLST form has been completed, or who~~ 145
~~possesses the DNR identification or for whom the~~ 146
~~do not resuscitate order has been issued;~~ 147

(c) Any person who works for the health care facility as an 148
employee, contractor, or volunteer and who participates under the 149
direction of or with the authorization of a physician in the 150
withholding or withdrawal of CPR from the person ~~possessing who~~ 151
~~has executed a declaration, for whom a do-not-resuscitate order or~~ 152
~~hospital do-not-resuscitate order has been issued or MOLST form~~ 153
~~has been completed, or who possesses the DNR identification;~~ 154

~~(d) Any person who works for the health care facility as an~~ 155
~~employee, contractor, or volunteer and who participates under the~~ 156
~~direction of or with the authorization of a physician in the~~ 157
~~withholding or withdrawal of CPR from the person for whom the~~ 158
~~do not resuscitate order has been issued.~~ 159

(3) If, after DNR identification is discovered in the 160
possession of a person, the person makes an oral or written 161
request to receive CPR, any person who provides CPR pursuant to 162
the request, any health care facility in which CPR is provided, 163
and the administrator of any health care facility in which CPR is 164
provided are not subject to criminal prosecution as a result of 165
the provision of the CPR, are not liable in damages in a tort or 166
other civil action for injury, death, or loss to person or 167
property that arises out of or is related to the provision of the 168
CPR, and are not subject to professional disciplinary action as a 169
result of the provision of the CPR. 170

(B) Divisions (A)(1), (A)(2), and (C) of this section do not 171
apply when CPR is withheld or withdrawn from a person who has 172
executed a declaration, for whom a do-not-resuscitate order or 173

hospital do-not-resuscitate order has been issued or MOLST form 174
has been completed, or who possesses DNR identification ~~or for~~ 175
~~whom a do not resuscitate order has been issued~~ unless the 176
withholding or withdrawal is in accordance with the 177
do not resuscitate protocol instructions regarding the withholding 178
or withdrawal of CPR in the declaration, do-not-resuscitate order 179
or hospital do-not-resuscitate order, or MOLST form. 180

(C) ~~Any emergency medical services personnel who comply with~~ 181
~~a do not resuscitate order issued by a physician and any~~ 182
~~individuals who work for a health care facility as employees,~~ 183
~~contractors, or volunteers and who comply with a~~ 184
~~do not resuscitate order issued by a physician are not subject to~~ 185
~~liability in damages in a civil action for injury, death, or loss~~ 186
~~to person or property that arises out of or is related to~~ 187
~~compliance with the order, are not subject to criminal prosecution~~ 188
~~as a result of compliance with the order, and are not subject to~~ 189
~~professional disciplinary action as a result of compliance with~~ 190
~~the order.~~ 191

In an emergency situation, emergency medical services 192
personnel and emergency department personnel are not required to 193
search a person to determine if the person possesses DNR 194
identification. If a person possesses DNR identification, if 195
emergency medical services personnel or emergency department 196
personnel provide CPR to the person in an emergency situation, and 197
if, at that time, the personnel do not know and do not have 198
reasonable cause to believe that the person possesses DNR 199
identification, the emergency medical services personnel and 200
emergency department personnel are not subject to criminal 201
prosecution as a result of the provision of the CPR, are not 202
liable in damages in a tort or other civil action for injury, 203
death, or loss to person or property that arises out of or is 204
related to the provision of the CPR, and are not subject to 205

professional disciplinary action as a result of the provision of 206
the CPR. 207

(D) Nothing in sections 2133.21 to 2133.26 of the Revised 208
Code ~~or the do not resuscitate protocol~~ grants immunity to a 209
physician for issuing a do-not-resuscitate order or hospital 210
do-not-resuscitate order that is contrary to reasonable medical 211
standards or that the physician knows or has reason to know is 212
contrary to the wishes of the patient or of a person who is 213
lawfully authorized to make informed medical decisions on the 214
patient's behalf. 215

Sec. 2133.23. (A) If emergency medical services personnel, 216
other than physicians, are presented with DNR identification 217
possessed by a person or are presented with a ~~written~~ 218
~~do not resuscitate order for a person or if a physician directly~~ 219
~~issues to emergency medical services personnel, other than~~ 220
~~physicians, an oral do not resuscitate order for a person~~ any of 221
the following, the emergency medical services personnel shall 222
comply with the ~~do not resuscitate protocol for the person. If an~~ 223
~~oral do not resuscitate order is issued by a physician who is not~~ 224
~~present at the scene, the emergency medical services personnel~~ 225
~~shall verify the physician's identity~~ instructions regarding the 226
withholding or withdrawal of CPR in the relevant document: 227

(1) A declaration executed by the person; 228

(2) A written do-not-resuscitate order or hospital 229
do-not-resuscitate order that has been issued for the person; 230

(3) A MOLST form that has been completed for the person. 231

(B) If a person possesses DNR identification and if the 232
person's attending physician or the health care facility in which 233
the person is located is unwilling or unable to comply with the 234
~~do not resuscitate protocol for the person~~ instructions regarding 235

the withholding or withdrawal of CPR in a declaration executed by 236
the person, a written do-not-resuscitate order or hospital 237
do-not-resuscitate order that has been issued for the person, or a 238
MOLST form that has been completed for the person, the attending 239
physician or the health care facility shall not prevent or attempt 240
to prevent, or unreasonably delay or attempt to delay, the 241
transfer of the person to a different physician who will follow 242
the ~~protocol~~ instructions or to a different health care facility 243
in which the ~~protocol~~ instructions will be followed. 244

(C) If a person who possesses DNR identification or ~~for whom~~ 245
~~a current~~ who has executed a declaration or for whom a written 246
do-not-resuscitate order has been issued or MOLST form has been 247
completed is being transferred from one health care facility to 248
another, before or at the time of the transfer, the transferring 249
health care facility shall notify the receiving health care 250
facility and the persons transporting the person of the existence 251
of the DNR identification ~~or the order, declaration, written~~ 252
~~do-not-resuscitate order, or MOLST form.~~ If a current 253
~~do not resuscitate order was issued orally, it shall be reduced to~~ 254
~~writing before the time of the transfer.~~ The DNR identification ~~or~~ 255
~~the order, declaration, written do-not-resuscitate order, or MOLST~~ 256
form shall accompany the person to the receiving health care 257
facility and shall remain in effect unless ~~it is revoked or~~ 258
~~unless, in the case of a do not resuscitate order, the order no~~ 259
~~longer is current~~ any of the following circumstances apply: 260

(1) In the case of a DNR identification, it has been revoked. 261

(2) In the case of a declaration, it has been revoked as 262
described in section 2133.04 of the Revised Code. 263

(3) In the case of a written do-not-resuscitate order, it is 264
no longer current. 265

(4) In the case of a MOLST form, it has been superseded as 266

described in section 2133.41 of the Revised Code, revoked as 267
described in section 2133.39 of the Revised Code, or when a 268
condition in division (A) or (B) of section 2133.43 of the Revised 269
Code applies. 270

Sec. 2133.24. (A) The death of a person resulting from the 271
withholding or withdrawal of CPR for the person pursuant to ~~the~~ 272
~~do-not-resuscitate protocol~~ instructions regarding the withholding 273
or withdrawal of CPR in a declaration executed by the person, a 274
written do-not-resuscitate order or hospital do-not-resuscitate 275
order that has been issued for the person, or a MOLST form that 276
has been completed for the person and in the circumstances 277
described in section 2133.22 of the Revised Code or in accordance 278
with division (A) of section 2133.23 of the Revised Code does not 279
constitute for any purpose a suicide, aggravated murder, murder, 280
or any other homicide. 281

(B)(1) If a person has executed a declaration, or a written 282
do-not-resuscitate order or hospital do-not-resuscitate order has 283
been issued or a MOLST form completed for the person, or the 284
person possesses DNR identification ~~or if a current~~ 285
~~do-not-resuscitate order has been issued for a person, the~~ 286
existence of the declaration, written do-not-resuscitate order or 287
hospital do-not-resuscitate order, MOLST form, or possession ~~of~~ 288
order of the DNR identification shall not do either of the 289
following: 290

(a) Affect in any manner the sale, procurement, issuance, or 291
renewal of a policy of life insurance or annuity, notwithstanding 292
any term of a policy or annuity to the contrary; 293

(b) Be deemed to modify in any manner or invalidate the terms 294
of any policy of life insurance or annuity that is in effect on 295
the effective date of this section. 296

(2) Notwithstanding any term of a policy of life insurance or 297

annuity to the contrary, the withholding or withdrawal of CPR from 298
a person who is insured or covered under the policy or annuity and 299
who possesses DNR identification ~~or for whom a current~~ 300
~~do not resuscitate order has been issued, in accordance with~~ 301
~~sections 2133.21 to 2133.26 of the Revised Code, who has executed~~ 302
a declaration, or for whom a written do-not-resuscitate order or 303
hospital do-not-resuscitate order has been issued or MOLST form 304
has been completed shall not impair or invalidate any policy of 305
life insurance or annuity. 306

(3) Notwithstanding any term of a policy or plan to the 307
contrary, neither of the following shall impair or invalidate any 308
policy of health insurance or other health care benefit plan: 309

(a) The withholding or withdrawal in accordance with sections 310
2133.21 to 2133.26 of the Revised Code of CPR from a person who is 311
insured or covered under the policy or plan and who possesses DNR 312
identification ~~or for whom a current do not resuscitate order has~~ 313
~~been issued, who has executed a declaration, or for whom a written~~ 314
do-not-resuscitate order or hospital do-not-resuscitate order has 315
been issued or MOLST form has been completed; 316

(b) The provision in accordance with sections 2133.21 to 317
2133.26 of the Revised Code of CPR to a person of the nature 318
described in division (B)(3)(a) of this section. 319

(4) No physician, health care facility, other health care 320
provider, person authorized to engage in the business of insurance 321
in this state under Title XXXIX of the Revised Code, health 322
insuring corporation, other health care benefit plan, legal entity 323
that is self-insured and provides benefits to its employees or 324
members, or other person shall require an individual to possess 325
DNR identification, execute a declaration, or have a written 326
do-not-resuscitate order or hospital do-not-resuscitate order 327
issued or MOLST form completed, or shall require an individual to 328
revoke or refrain from possessing DNR identification, as a 329

condition of being insured or of receiving health care benefits or 330
services. 331

(C)(1) Sections 2133.21 to 2133.26 of the Revised Code do not 332
create any presumption concerning the intent of an individual who 333
does not possess DNR identification with respect to the use, 334
withholding, or withdrawal of CPR. 335

(2) Sections 2133.21 to 2133.26 of the Revised Code do not 336
affect the right of a person to make informed decisions regarding 337
the use, withholding, or withdrawal of CPR for the person as long 338
as the person is able to make those decisions. 339

(3) Sections 2133.21 to 2133.26 of the Revised Code are in 340
addition to and independent of, and do not limit, impair, or 341
supersede, any right or responsibility that a person has to effect 342
the withholding or withdrawal of life-sustaining treatment to 343
another pursuant to sections 2133.01 to 2133.15 or sections 344
2133.30 to 2133.48 of the Revised Code or in any other lawful 345
manner. 346

(D) Nothing in sections 2133.21 to 2133.26 of the Revised 347
Code condones, authorizes, or approves of mercy killing, assisted 348
suicide, or euthanasia. 349

Sec. 2133.26. (A)(1) No physician shall purposely prevent or 350
attempt to prevent, or delay or unreasonably attempt to delay, the 351
transfer of a patient in violation of division (B) of section 352
2133.23 of the Revised Code. 353

(2) No person shall purposely conceal, cancel, deface, or 354
obliterate the DNR identification of another person without the 355
consent of the other person. 356

(3) No person shall purposely falsify or forge a revocation 357
of a declaration or MOLST form that is the basis of the DNR 358
identification of another person or purposely falsify or forge an 359

order of a physician or a MOLST form that purports to supersede a 360
do-not-resuscitate order or hospital do-not-resuscitate order 361
issued, or MOLST form completed, for another person. 362

(4) No person shall purposely falsify or forge the DNR 363
identification of another person with the intent to cause the use, 364
withholding, or withdrawal of CPR for the other person. 365

~~(5) No person who has personal knowledge that another person 366
has revoked a declaration that is the basis of the other person's 367
DNR identification or personal knowledge that a physician has 368
issued an order that supersedes a do not resuscitate order that 369
the physician issued for another person None of the following 370
shall purposely conceal or withhold ~~that~~ personal knowledge with 371
the intent to cause the use, withholding, or withdrawal of CPR for 372
the other person:~~ 373

(a) A person who has personal knowledge that another person 374
has revoked a declaration that is the basis of the other person's 375
DNR identification; 376

(b) A person who has personal knowledge that a physician has 377
issued an order that supersedes a do-not-resuscitate order or 378
hospital do-not-resuscitate order that the physician issued for 379
another person; 380

(c) A person who has personal knowledge that another person 381
has revoked or superseded a MOLST form that is the basis of the 382
other person's DNR identification. 383

(B)(1) Whoever violates division (A)(1) or (5) of this 384
section is guilty of a misdemeanor of the third degree. 385

(2) Whoever violates division (A)(2), (3), or (4) of this 386
section is guilty of a misdemeanor of the first degree. 387

Sec. 2133.30. As used in this section and sections 2133.31 to 388
2133.48 of the Revised Code: 389

(A) "Advanced practice nurse" means a registered nurse who holds a valid certificate that authorizes the practice of nursing as a certified nurse practitioner or a clinical nurse specialist in accordance with section 4723.43 of the Revised Code. 390
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(B) "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. 394
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(C) "Comfort care" means any of the following: 399

(1) Nutrition when administered to diminish pain or discomfort, but not to postpone death; 400
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(2) Hydration when administered to diminish pain or discomfort, but not to postpone death; 402
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(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. 404
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(D) "CPR" has the same meaning as in section 2133.21 of the Revised Code. 407
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(E) "Declaration" means a document executed in accordance with section 2133.02 of the Revised Code. 409
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(F) "DNR identification," "do-not-resuscitate order," and "hospital do-not-resuscitate order" have the same meanings as in section 2133.21 of the Revised Code. 411
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(G) "Durable power of attorney for health care" means a document created pursuant to sections 1337.11 to 1337.17 of the Revised Code. 414
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(H) "Emergency medical services worker" means a paid or volunteer firefighter, law enforcement officer, first responder, emergency medical technician-basic, emergency medical 417
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technician-intermediate, emergency medical technician-paramedic, 420
medical technician, or other emergency services worker acting 421
within the ordinary course of the emergency services profession. 422

(I) "Form preparer" means the issuing practitioner who 423
completes a medical orders for life-sustaining treatment form or 424
the individual who completes the form pursuant to the 425
practitioner's delegation. 426

(J) "Health care facility" has the same meaning as in section 427
1337.11 of the Revised Code. 428

(K) "Issuing practitioner" means a physician, physician 429
assistant, or advanced practice nurse who issues medical orders 430
for life-sustaining treatment for a patient by signing as the 431
issuing practitioner the medical orders for life-sustaining 432
treatment form for the patient. 433

(L) "Life-sustaining treatment" means any medical procedure, 434
treatment, intervention, or other measure that, when administered 435
to a patient, is intended to serve principally to prolong the 436
process of dying. 437

(M) "Medical orders for life-sustaining treatment" means 438
instructions, issued by a physician, physician assistant, or 439
advanced practice nurse, regarding how a patient should be treated 440
with respect to hospitalization, administration or withdrawal of 441
life-sustaining treatment and comfort care, and other treatment 442
the director of health has specified in rules adopted under 443
section 2133.31 of the Revised Code. 444

(N) "Medical orders for life-sustaining treatment form," 445
"MOLST form," or "form" means the form prescribed by the director 446
of health pursuant to rules adopted under section 2133.31 of the 447
Revised Code that when completed documents an issuing 448
practitioner's medical orders for life-sustaining treatment. 449

(O) "Nutrition" means sustenance that is artificially or 450

technologically administered. 451

(P) "Patient" means an individual eighteen years of age or older who is the subject of a MOLST form. 452
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(Q) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 454
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(R) "Physician assistant" means an individual who holds a valid certificate to practice as a physician assistant issued under Chapter 4730. of the Revised Code. 457
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Sec. 2133.31. (A) Subject to division (D) of this section, the director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following: 460
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(1) Specify the treatment, in addition to hospitalization, administration or withdrawal of life-sustaining treatment and comfort care, and administration of CPR that may be included in instructions that constitute medical orders for life-sustaining treatment under section 2133.30 of the Revised Code; 463
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(2) Subject to divisions (B) and (C) of this section, prescribe a medical orders for life-sustaining treatment (MOLST) form; 468
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(3) Specify procedures for a MOLST form to be amended or revoked; 471
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(4) Specify what constitutes full treatment for purposes of section 2133.42 of the Revised Code; 473
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(5) Specify the requirements an individual must meet to be authorized to complete a MOLST form when this responsibility is delegated by an issuing practitioner; 475
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(6) Specify the extent to which medical orders for life-sustaining treatment forms, physician orders for 478
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life-sustaining treatment forms, or physician orders for scope of 480
treatment forms executed under the laws or regulations of other 481
states are valid for purposes of sections 2133.31 to 2133.48 of 482
the Revised Code; 483

(7) Specify the individual or class of individuals who must 484
sign and date a MOLST form if all of the individuals or classes of 485
individuals in divisions (B)(1) to (7) of section 2133.34 of the 486
Revised Code are incapacitated or are not willing to participate 487
or are not available within a reasonable period of time to 488
participate in the completion of a MOLST form; 489

(8) Address any other matters necessary or appropriate to 490
implement or clarify sections 2133.31 to 2133.48 of the Revised 491
Code. 492

(B) The rules the director adopts under division (A)(2) of 493
this section must, at minimum, address all of the following: 494

(1) The color the MOLST form must be if it is on paper; 495

(2) The logo that identifies a form, whether in paper or 496
electronic format, as an official MOLST form; 497

(3) The inclusion of a space designated for the patient's 498
name; 499

(4) The inclusion of spaces designated for the names, 500
telephone numbers, signatures, and dates of signature of all of 501
the following: 502

(a) The issuing practitioner; 503

(b) The form preparer; 504

(c) The patient or individual or class of individuals 505
specified in division (B) of section 2133.34 of the Revised Code 506
who participate in the form's completion. 507

(5) The inclusion of boxes for the form preparer to indicate 508
whether a physician or advanced practice nurse issued a 509

do-not-resuscitate order for the patient prior to the effective 510
date of this section and whether the patient has executed a 511
declaration or a durable power of attorney for health care. 512

(6) The inclusion of boxes corresponding to a range of 513
preferences the patient or individual or class of individuals 514
specified in division (B) of section 2133.34 of the Revised Code 515
who participate in a form's completion can select regarding 516
various medical treatments and when such treatments should be 517
administered, including, but not limited to, CPR, antibiotics, 518
artificially or technologically administered nutrition and 519
hydration, and other medical interventions and the inclusion of 520
spaces next to the boxes for the name of the patient, individual, 521
or individuals who make the selections; 522

(7) The inclusion of a space where the form preparer can 523
indicate whether the patient authorizes another individual to do 524
both of the following: 525

(a) Make all medical decisions on the patient's behalf, 526
including those regarding the administration of CPR and other 527
life-sustaining treatment; 528

(b) Revoke the form at any time in accordance with the 529
procedure prescribed in rules adopted under section 2133.31 of the 530
Revised Code and complete a new form. 531

(8) The inclusion of a space for the form preparer to list 532
the name and contact information for the attorney in fact under 533
the patient's durable power of attorney for health care or, if the 534
patient has not executed a durable power of attorney for health 535
care or the form preparer is not told who the attorney in fact is, 536
the patient's next of kin. 537

(9) The inclusion of a space designated for the signature of 538
a patient's attorney in fact under a durable power of attorney for 539
health care, to be signed by the attorney in fact if the attorney 540

in fact is present when the form is completed; 541

(10) The inclusion of a space for the form preparer to 542
indicate the date that the form was completed and signed in 543
accordance with sections 2133.34 and 2133.35 of the Revised Code; 544

(11) The inclusion of spaces designated for the names of 545
individuals who review the form after it is completed, the dates 546
on which reviews are completed, and the reviewer to indicate the 547
review's outcome; 548

(12) The inclusion of the following advisory statements, in 549
boldface type: 550

(a) "There is no requirement that a patient or patient's 551
representative execute a MOLST form. You are not required to sign 552
this form for the patient to receive treatment." 553

This statement shall appear in the space immediately above 554
the space designated for the signature of the patient or 555
individual or class of individuals specified in division (B) of 556
section 2133.34 of the Revised Code who participate in a form's 557
completion. 558

(b) "Use of this form is permitted for persons who are at 559
least eighteen years old and have advanced chronic progressive 560
illness, might die within the next year, or desire to define their 561
preferences for medical care." 562

(c) "The instructions in this form may supersede an 563
inconsistent instruction in a declaration (living will), durable 564
power of attorney for health care, or a DNR identification as 565
described in section 2133.41 of the Ohio Revised Code." 566

(d) "This form may be revoked in accordance with section 567
2133.39 of the Ohio Revised Code." 568

(C) When prescribing a medical orders for life-sustaining 569
treatment form pursuant to division (A)(2) of this section, the 570

director shall consider the design and content of forms used in 571
other states to document medical or physician orders for 572
life-sustaining treatment. 573

(D) The director shall adopt the initial rules required by 574
this section not later than six months after the effective date of 575
this section. 576

Sec. 2133.32. The MOLST form prescribed in rules adopted 577
under section 2133.31 of the Revised Code shall be made available 578
on the department of health's web site in a format that can be 579
downloaded free of charge and reproduced. 580

Sec. 2133.33. (A) Except as provided in division (C) of this 581
section, a physician, physician assistant, or advanced practice 582
nurse may at any time issue medical orders for life-sustaining 583
treatment for a patient by completing a MOLST form. Once completed 584
and signed in accordance with sections 2133.34 and 2133.35 of the 585
Revised Code, the MOLST form is valid and, except as provided in 586
division (B) of this section, the instructions in it become 587
operative and govern how the patient who is the subject of the 588
form is to be treated with respect to hospitalization, 589
administration or withdrawal of life-sustaining treatment and 590
comfort care, administration of CPR, and other treatment the 591
director of health has specified in rules adopted under section 592
2133.31 of the Revised Code. 593

(B) The instructions in a MOLST form are not operative and do 594
not govern how a patient is to be treated when the form is 595
superseded as described in section 2133.41 of the Revised Code, 596
revoked as described in section 2133.39 of the Revised Code, or 597
when a condition in division (A) or (B) of section 2133.43 of the 598
Revised Code applies. 599

(C) A physician, physician assistant, or advanced practice 600

nurse shall not have a MOLST form completed for a patient if, 601
subject to division (D) of this section, the patient, or if the 602
patient is incapacitated the individual or class of individuals 603
determined according to the order of priority in division (B) of 604
section 2133.34 of the Revised Code, makes known to the physician, 605
physician assistant, or advanced practice nurse that completion of 606
a MOLST form is not desired. 607

(D) Any disagreement within a class of individuals as to 608
whether a MOLST form should be completed shall be resolved in 609
accordance with section 2133.36 of the Revised Code. 610

Sec. 2133.34. (A) All of the following must participate in 611
the completion of a MOLST form for the form to be valid: 612

(1) The issuing practitioner, who must sign and date the form 613
in the space designated for the practitioner's signature and who 614
may complete the form or delegate the responsibility of the form's 615
completion to an individual who meets the requirements established 616
in rules adopted under section 2133.31 of the Revised Code; 617

(2) If the issuing practitioner is not the form preparer, the 618
form preparer, who must sign and date the form in the space 619
designated for the form preparer's signature; 620

(3) Except as provided in division (B) of this section, the 621
patient, who must sign and date the form in the space designated 622
for the patient's signature. 623

(B) If the patient is incapacitated, the individual or class 624
of individuals determined in the following descending order of 625
priority and subject to divisions (D) and (E) of this section and 626
section 2133.36 of the Revised Code must sign and date the form in 627
the space designated for such signature or signatures and must 628
indicate the relationship to the patient: 629

(1) The patient's attorney in fact under the patient's 630

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| <u>durable power of attorney for health care;</u> | 631 |
| <u>(2) The patient's guardian;</u> | 632 |
| <u>(3) The patient's spouse;</u> | 633 |
| <u>(4) An adult child of the patient or, if there is more than one adult child, all of the patient's adult children;</u> | 634 635 |
| <u>(5) The patient's parents;</u> | 636 |
| <u>(6) An adult sibling of the patient or, if there is more than one adult sibling, all of the adult's siblings;</u> | 637 638 |
| <u>(7) The adult not described in divisions (B)(1) to (6) of this section who is most closely related to the patient by blood or adoption;</u> | 639 640 641 |
| <u>(8) The individual or class of individuals designated by the director of health in rules adopted under section 2133.31 of the Revised Code.</u> | 642 643 644 |
| <u>(C) Division (B)(2) of this section shall not be construed as permitting or requiring the appointment of a guardian for the patient.</u> | 645 646 647 |
| <u>(D) If an appropriate individual entitled to participate under division (B) of this section in a MOLST form's completion is not available within a reasonable period of time to participate in the form's completion, is incapacitated, or declines to participate, the next priority individual or class of individuals specified in that division is authorized to participate.</u> | 648 649 650 651 652 653 |
| <u>(E) If at least one individual in a class of individuals entitled to participate under division (B) of this section in a MOLST form's completion is incapacitated, is not willing to participate, or is not available within a reasonable period of time, participation shall be limited to the individual or individuals in the class who are not incapacitated and are willing to participate and available within a reasonable period of time.</u> | 654 655 656 657 658 659 660 |

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Sec. 2133.35. (A) When completing a MOLST form, the form preparer shall discuss the instructions in the form with the patient or, if the patient is incapacitated, the appropriate individual or class of individuals determined in accordance with division (B) of section 2133.34 of the Revised Code. The instructions the form preparer lists on the form shall reflect the desires of the patient or, subject to division (C) of this section, the appropriate individual or class of individuals as expressed during the discussion. A declaration or durable power of attorney for health care, or both, if a copy of one or both documents is furnished to the form preparer, may guide the discussion between the form preparer and the patient or appropriate individual or class of individuals.

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

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

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(2) Revoke the form at any time in accordance with the procedure prescribed in rules adopted under section 2133.31 of the Revised Code and complete a new form.

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(C) Consistent with division (F) of section 1337.13 of the Revised Code, an attorney in fact under a durable power of attorney for health care or another individual or class of individuals determined in accordance with division (B) of section 2133.34 of the Revised Code does not have the authority to advise that the form preparer make an instruction in a MOLST form inconsistent with an instruction in a declaration or durable power

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of attorney for health care unless the issuing practitioner and at least one physician who has reviewed the patient's medical record determine that at least one of the following applies: 692
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(1) A change in the physical condition of the patient has significantly decreased the benefit of that instruction to the patient. 695
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(2) The instruction is not, or is no longer, significantly effective in achieving the purpose for which the patient consented to it. 698
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Sec. 2133.36. (A) Subject to division (B) of this section, if individuals in a class of individuals determined in accordance with division (B) of section 2133.34 of the Revised Code disagree on any decision that must be made with regard to the completion of the form, the opinion of the majority of individuals who are not incapacitated and are available within a reasonable period of time and willing to participate shall prevail. 701
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(B) If a majority of individuals cannot reach a decision under division (A) of this section, a physician who is not the issuing practitioner but who has reviewed the patient's medical record shall make the decision that the physician believes is most consistent with reasonable medical standards. 708
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Sec. 2133.37. A completed MOLST form shall be placed in a conspicuous location 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 must be readily available and retrievable. 713
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Sec. 2133.38. If a patient with a MOLST form is transferred from one health care facility to another, the health care facility initiating the transfer shall communicate the existence of, and 718
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send a copy of, the form to the receiving facility prior to the 721
transfer. The copy may be sent via regular mail or by facsimile or 722
other electronic means, but if maintained in paper format, must be 723
placed on the color of paper specified in rules adopted under 724
section 2133.31 of the Revised Code on receipt by the receiving 725
facility. A copy of the form is the same as the original. 726

Consistent with section 2133.37 of the Revised Code, the copy 727
of the MOLST form shall be placed in a conspicuous location in the 728
patient medical record immediately on receipt by the receiving 729
facility. After admission, the attending physician shall review 730
the MOLST form and discuss with the patient or appropriate 731
individual or class of individuals determined in accordance with 732
division (B) of section 2133.34 of the Revised Code whether the 733
form should be amended or revoked and whether a new form should be 734
issued. 735

If a decision is made to amend the form, the attending 736
physician shall proceed with the amendment consistent with the 737
amendment procedure prescribed in rules adopted under section 738
2133.31 of the Revised Code. If a decision is made to revoke the 739
form, whether or not there is an intention to issue a new form, 740
the revocation shall be done in accordance with section 2133.39 of 741
the Revised Code. 742

Sec. 2133.39. (A) A patient may revoke a MOLST form at any 743
time in accordance with the procedure specified in rules adopted 744
under section 2133.31 of the Revised Code. 745

(B) If a patient is incapacitated, the individual or class of 746
individuals determined in accordance with division (B) of section 747
2133.34 of the Revised Code may revoke a form in accordance with 748
the procedure specified in rules adopted under section 2133.31 of 749
the Revised Code if the attending physician determines that at 750

least one of the following is true: 751

(1) There has been a change in the physical condition of the patient that significantly decreases the benefit of the instructions in the MOLST form to the patient. 752
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(2) The instructions in the MOLST form are no longer significantly effective in achieving the purposes for which the patient, or individual or class of individuals determined in accordance with division (B) of section 2133.34 of the Revised Code, consented to their use. 755
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Sec. 2133.40. Unless revoked in accordance with section 2133.39 of the Revised Code, a MOLST form does not expire. 760
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Sec. 2133.41. (A) An instruction in a MOLST form that is inconsistent with an instruction in a do-not-resuscitate order always supersedes the inconsistent instruction in the do-not-resuscitate order. 762
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(B) An instruction in a MOLST form that is inconsistent with an instruction in a general consent to treatment form signed by or on behalf of the patient, a declaration, a durable power of attorney for health care, or a hospital do-not-resuscitate order supersedes the inconsistent instruction in any of those documents unless both of the following are true: 766
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(1) The document was executed after the MOLST form, as evidenced by the date on the document. 772
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(2) The attending physician is made aware of the document and furnished a copy of it. 774
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Sec. 2133.42. If a section of a MOLST form has not been completed, the attending physician may proceed with the understanding that full treatment relative to treatment covered by that section of the form is to be considered unless the form 776
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indicates that the patient has authorized another individual to 780
make all medical decisions on the patient's behalf as described in 781
division (B) of section 2133.35 of the Revised Code. 782

Sec. 2133.43. An attending physician may render treatment or 783
take a course of action that is contrary to, or in conflict with, 784
an instruction in a MOLST form if at least one of the following 785
conditions applies: 786

(A) The patient communicates to the attending physician that 787
the patient desires to be treated in a manner that is contrary to, 788
or in conflict with, an instruction in a MOLST form. 789

(B) An individual or class of individuals described in 790
division (B) of section 2133.34 of the Revised Code participated 791
in the completion of the MOLST form on behalf of the patient, and 792
the attending physician and another physician who has reviewed the 793
patient's medical record believe, to a reasonable degree of 794
medical certainty and in accordance with reasonable medical 795
standards, that either of the following is true: 796

(1) A change in the physical condition of the patient has 797
significantly decreased the benefit of the instruction to the 798
patient. 799

(2) The instruction is not, or is no longer, significantly 800
effective in achieving the purpose for which the individual or 801
class of individuals consented to its use. 802

Sec. 2133.44. (A) Subject to division (B) of this section, no 803
health care facility, health care professional, or emergency 804
services worker shall be subject to criminal prosecution, liable 805
in damages in tort or other civil action, or subject to 806
professional disciplinary action for acting in accordance with, or 807
otherwise being in compliance with, a valid MOLST form or sections 808

2133.31 to 2133.48 of the Revised Code. 809

(B) Division (A) of this section does not grant an immunity 810
from criminal or civil liability or from professional disciplinary 811
action to health care personnel for actions that are outside their 812
scope of authority. 813

Sec. 2133.45. The death of an individual that occurs as a 814
result of actions taken consistent with instructions in a MOLST 815
form does not constitute for any purpose a suicide, aggravated 816
murder, murder, or any other homicide. 817

Sec. 2133.46. The issuance of a MOLST form shall not do any 818
of the following: 819

(A) Affect in any manner the sale, procurement, issuance, or 820
renewal of a policy of life insurance or annuity, notwithstanding 821
any term of a policy or annuity to the contrary; 822

(B) Modify in any manner or invalidate the terms of a policy 823
of life insurance or annuity that is in effect on the effective 824
date of this section; 825

(C) Impair or invalidate a policy of life insurance or 826
annuity or any health benefit plan. 827

Sec. 2133.47. No physician, health care facility, other 828
health care provider, person authorized to engage in the business 829
of insurance in this state under Title XXXIX of the Revised Code, 830
health insuring corporation, other health care benefit plan, legal 831
entity that is self-insured and provides benefits to its employees 832
or members, governmental entity, or other person shall require 833
that an individual be the subject of a MOLST form, or require an 834
individual to revoke or refrain from being the subject of a MOLST 835
form, as a condition of being insured or of receiving health care 836

benefits or services. 837

Sec. 2133.48. In the absence of actual knowledge to the 838
contrary and if acting in good faith, an attending physician, 839
other health care professional, emergency services worker, or 840
health care facility may assume that a MOLST form complies with 841
sections 2133.31 to 2133.47 of the Revised Code and is valid. 842

Section 2. That existing sections 2133.21, 2133.22, 2133.23, 843
2133.24, and 2133.26 and section 2133.25 of the Revised Code are 844
hereby repealed. 845

Section 3. (A) There is hereby created the Medical Orders For 846
Life-Sustaining Treatment Advisory Council. The Council shall 847
consist of the following twenty-nine members: 848

(1) An employee of the Department of Aging, appointed by the 849
Director of Aging; 850

(2) An employee of the Department of Mental Health, appointed 851
by the Director of Mental Health; 852

(3) An employee of the Department of Mental Retardation and 853
Developmental Disabilities, appointed by the Director of Mental 854
Retardation and Developmental Disabilities; 855

(4) The Executive Director of the Ohio Medical Transportation 856
Board; 857

(5) The Executive Director of the State Board of Emergency 858
Medical Services; 859

(6) One representative from each of the following 860
organizations, appointed by the president or chief administrative 861
officer of the organization: 862

(a) The Ohio Hospital Association; 863

(b) The Ohio State Medical Association; 864

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| (c) The Ohio Chapter of the American College of Emergency Physicians; | 865 866 |
| (d) The Ohio Hospice and Palliative Care Organization; | 867 |
| (e) The Ohio Health Care Association; | 868 |
| (f) The Ohio Ambulance and Medical Transportation Association; | 869 870 |
| (g) The Ohio Medical Directors Association; | 871 |
| (h) The Ohio Association of Emergency Medical Services; | 872 |
| (i) The Bioethics Network of Ohio; | 873 |
| (j) The Ohio Nurses Association; | 874 |
| (k) The Ohio Academy of Nursing Homes; | 875 |
| (l) The Ohio Association of Professional Firefighters; | 876 |
| (m) The Ohio Osteopathic Association; | 877 |
| (n) The Association of Ohio Philanthropic Homes, Housing and Services for the Aging; | 878 879 |
| (o) The Catholic Conference of Ohio; | 880 |
| (p) The Ohio Private Residential Association; | 881 |
| (q) The Northern Ohio Fire Fighters Association; | 882 |
| (r) The Ohio Assisted Living Association; | 883 |
| (s) The Ohio Council for Home Care; | 884 |
| (t) Lifeline of Ohio; | 885 |
| (u) The Ohio State Bar Association; | 886 |
| (v) The Ohio Association of Advanced Practice Nurses; | 887 |
| (w) The Ohio Fire Chiefs Association; | 888 |
| (x) The Ohio State Firefighters Association. | 889 |
| (B) The Council shall meet at the call of the Director of | 890 |

Health. The Department of Health shall provide meeting space, 891
staff services, and technical assistance required by the Council 892
in carrying out its duties. 893

(C) The Council shall advise the Director of Health regarding 894
the rules the Director must adopt under section 2133.31 of the 895
Revised Code. Each member of the Council has one vote. A majority 896
of the members present at a meeting constitutes a quorum, and the 897
affirmative vote of a majority of the members present is necessary 898
for the Council to make an official recommendation to the Director 899
on a particular rule. 900

The Director may assign other duties to the Council, as the 901
Director considers appropriate. 902

(D) Members of the Council shall serve without compensation, 903
but shall be reimbursed for their actual and necessary expenses 904
incurred in attending meetings of the Council or performing 905
assignments for the Council. 906

(E) The Council shall cease to exist on the Director's 907
adoption of initial rules pursuant to section 2133.31 of the 908
Revised Code. 909