

Nevada POLST Post

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Filing Suit for ‘Wrongful Life’

By Paula Span. Published January 22, 2021 – Updated January 26, 2021

More Americans are writing end-of-life instructions as the pandemic renders such decisions less abstract. But are medical providers listening? Gerald and Elaine Greenberg married in 1976, as dental students. They practiced on Long Island and in Manhattan and raised two sons. Then in 2010, she noticed that her husband, the math whiz, was having trouble calculating tips in restaurants. “He just didn’t seem as sharp,” she said.

The devastating diagnosis from a neurologist: early-onset Alzheimer’s disease.

“We knew what could be ahead for him,” Elaine Greenberg said. “He didn’t want to lie there with tubes and diapers. That’s not how he wanted to end his life.”

Together, they called a lawyer and drew up advance directives in 2011. “We gave it a lot of thought,” she said. His directive was very specific: If he became terminally ill, permanently unconscious or seriously and irreversibly brain damaged, he wanted comfort measures only. No cardiac resuscitation or mechanical respiration. No tube feeding. No antibiotics.

Gerald Greenberg died in 2016 — and a recent lawsuit brought by his widow charges that when he was unresponsive and near death from sepsis at Montefiore New Rochelle Hospital in Westchester County, the hospital and an attending physician there failed to follow his directive.

The suit alleges that they also disregarded a New York State MOLST — medical orders for life-sustaining treatment — form and his spouse’s explicit instructions to a doctor who called to seek her guidance.

In summary, and according to the article, Mr. Greenberg received unwanted treatment and tests and he was in an unresponsive state which he sought to avoid. Most lawsuits claim failure to save one’s life, but now families are suing if providers fail to heed patients’ documented wishes and prevented death from occurring. Courts are now saying that this is compensable injury.

The article also mentioned a 2017 study of 800,000 Americans over the age of 65, 45.6% had an advance directive completed. But the numbers have increased recently during the coronavirus pandemic.

For the full article, please view it at New York Times website by following the link:

<https://www.nytimes.com/2021/01/22/health/elderly-dnr-death-lawsuit.html?referringSource=article>

Meet Our New Board of Directors and Coalition Members

We welcome new members to our Board of Directors, our newly elected officers and Coalition members.

BOARD MEMBERS:

Patti Pollina, APRN, ACHPN, NP-C - Chair and Secretary. Las Vegas.

Venetta Lepera, BA, BSN, RN - Vice-Chair. She is the Manager of Palliative Care In-Patient Program at Dignity Health, Las Vegas.

John Hardwick, MD, FACEP - Treasurer. He is an Emergency Department physician at Renown Health and Northern Nevada Medical Center; Medical Director, Fort McDermitt, Sparks Fire Department and Reno Airport Authority. Reno.

Curtis Brown, MD, FACEP - He was previously an Emergency Physician at Northern Nevada Emergency Physicians and is part of the Circle of Life Hospice team in Reno, Nevada.

Mary-Ann Brown, MSN - She is the Director of Palliative Care at Renown Health in Reno, Nevada.

Peggy Ewald, RN, CCM - She is Vice-President of Quality Management at Geriatric Specialty Care in Reno, Nevada.

Marci Roiter, MSW, LSW, CCM - Education She works as a Social Worker at Harmony Hospice in Las Vegas, Nevada.

Sally Hardwick, MS - original founder of Nevada POLST. Ms. Hardwick will be retiring. She was the Director of the Nevada Center for Ethics & Health Policy and faculty in the Department of Community Health Sciences at the University of Nevada, Reno. Ms. Hardwick will remain available as a source of institutional knowledge, help with the transition to new board members, and continue as the nevadapolst.org webmaster.

COALITION MEMBERS:

Rose Wetzel, MSN, RN. Patient Safety Manager at Dignity Health, Henderson, NV. As of January 2021, Ms. Wetzel will publish our POLST Post Newsletter.

Shelby Schiller, MSW. She is part of the Season’s Hospice team and researches CMS and CEU issues.

What is the difference between a Nevada POLST, AD & DNR?

The Physician Orders for Life-Sustaining Treatment (POLST) form compliments an Advance Directive (AD); it is not intended to replace any type of AD.

- An AD **is** a *legal* document, but **not** a medical order.
- Do Not Resuscitate (DNR) order only governs the withholding of resuscitation.
- Two types of DNR:
 1. When in a healthcare facility
 2. When outside a healthcare facility

NV POLST is both a *legal* document and a *medical* order intended for those ***near the end of a serious illness***.

- POLST orders direct treatment regarding resuscitation, artificial nutrition, and hydration and three levels of treatment for those ***nearing the end of life***.
- Because it is a *medical* order, it will be honored by all healthcare providers in all settings (both in an out of the healthcare facility).
- The POLST also notes who may *legally* speak on the patient's behalf if the patient is unable to verbalize their own wishes.

An Advance Directive **is** a *legal* document, but **not** a medical order.

- AD has two parts:
 1. Durable Power of Attorney for Health Care (DPOA-HC) – speaks to who legally may speak for the patient who cannot express their wishes.
 2. Declaration – provides limited instruction for future life-sustaining treatments.
- Unlike the POLST that is for those ***nearing the end of life***, an AD is recommended for all adults regardless of their health status.
- An AD cannot be honored by emergency medical services (EMS) personnel because an AD is **not** a medical order.

Do Not Resuscitate (DNR) order only governs the withholding of resuscitation.

- Two types of DNR:
 1. Healthcare Facility DNR – The order is only effective during a stay in a healthcare facility.
 2. Out-of-Hospital DNR – A special DNR is required, also known as a DNR Identification. This may only be completed for those diagnosed with a terminal illness. It ***only*** governs the withholding of resuscitation, no other treatments. It must be submitted to the state in order to receive a DNR ID. If admitted to a facility, the order is no longer valid and must be re-evaluated by the admitting physician and re-ordered as a regular DNR.

<https://www.nevadapolst.org/polst-ad-dnr>

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