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Task Force**

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Washington D.C.

Represented States

California
Hawaii
New York
North Carolina
Oregon
Tennessee
Washington
West Virginia
Wisconsin

3181 SW Sam Jackson Park Rd.
UHN-86
Portland, Oregon 97239
Phone: 503-494-3965
Fax: 503-494-1260
Email: polst@ohsu.edu
www.polst.org

Tony Trenkle
Director, Office of E-Health Standards and Services
Centers for Medicare and Medicaid Services
7500 Security Boulevard,
Baltimore, Maryland 21244

Dr. David Blumenthal
National Coordinator for Health Information Technology
U.S. Department of Health and Human Services
Hubert Humphrey Building, Room 416 G
200 Independence Avenue, SW
Washington, DC 20201

July 15, 2010

Dear Mr. Trenkle and Dr. Blumenthal,

Thank you for your efforts to enhance the meaningful use standards for advance care planning documents. We have concerns that the final regulations require only a notation of whether a patient has an advance directive, not the actual content of the advance directive. We also are concerned that the regulations do not include medical orders regarding life-sustaining treatments that help make advance directives effective.

Notation of the existence of an advance directive is required by the 1991 Patient Self-Determination Act. Noting that a person has an advance directive only without also providing the content of that directive does not make this critical information available to health care professionals caring for the person, many times in a crisis situation. Further, the notation without content may be misinterpreted by care professionals as a preference for a person to forego medical interventions, rather than indicating the true desire of the person to possibly *have* (or limit) such interventions. We believe that this final regulation does potentially more harm than good.

The final regulations also do not include medical orders such as might be included in a Physician Orders for Life-Sustaining Treatment (POLST) paradigm form. These orders are essential to making the patient's values expressed in an advance directive available in an actionable format to emergency medical personnel. The need for these health information standards is timely. Over 30 states are implementing POLST paradigm programs and some are now developing electronic registries for POLST orders. For example, Oregon statute now supports the Oregon POLST

Registry with over 25,000 forms submitted since inception in December 2009. As other states adopt similar registries, having clear and clinically relevant standards are needed.

In summary, while the task force is supportive of your efforts to improve the documentation of advance care planning documents, we feel that the final regulations are inadequate and potentially harmful to patient care. We recommend that you reconsider going beyond the mere notation of the existence of an advance directive and instead include standards for the contents of such documents and medical orders, like POLST paradigm orders, to ensure that a person's preferences to have or limit medical treatments are recorded, secure and available.

Thank you for your ongoing leadership in improvements in advance care planning and please let us know how we might be of further service.

Sincerely,

A handwritten signature in black ink that reads "Bernard J. Hammes PhD". The signature is written in a cursive style with a large initial 'B' and 'H'.

Bernard J. Hammes, Ph.D.
Chair, National POLST Paradigm Task Force
Center for Ethics in Health Care
Oregon Health & Science University