

## Throwing Out the Baby with the Bathwater!

Although we had not originally planned to do so, “From the Field” in this issue of *Health Care Ethics USA* is totally devoted to POLST. This decision was prompted primarily by the publication of a “White Paper” in the May, 2013 issue of *Linacre Quarterly* that has been widely disseminated, including among the nation’s bishops.<sup>1</sup> There are also some indications that the article is serving as the basis and inspiration for letters to bishops urging them to oppose POLST. Needless to say, this could have a direct impact on Catholic health care. As reported in previous issues of HCEUSA, other articles critical of POLST have likely influenced opposition to POLST by church leaders in at least two states (see Fall, 2010, pp. 27-29; Winter, 2012, pp. 30-35; Spring, 2012, pp. 40-48; Fall, 2012, pp. 23-34).

This issue’s “From the Field” includes a detailed analysis and critique of the *Linacre Quarterly* article by CHA ethicist, Fr. Tom Nairn, OFM, Ph.D. Our hope is that this critique will be helpful to our members and others in responding to queries about the *Linacre Quarterly* article. We are also including a Q & A about POLST that not only provides an excellent overview of POLST and how it works, but also addresses some of the concerns raised with regard to POLST. Hopefully, this too will be beneficial by providing a more objective presentation of POLST.

Our purpose here is neither to advocate for POLST nor to suggest that POLST is an ideal mechanism or perfect in its current form. There is undoubtedly room for improvement in many POLST forms across the country, as the *Linacre Quarterly* article points out, and possibly even in the POLST paradigm itself. POLST is an attempt to deal with several serious problems with end-of-life care. It is a tool. Whether or not this tool is successful in addressing these challenges, however, should be judged primarily from the experience of those who employ POLST—patients, surrogates, families, and clinicians. They are in the best position to judge whether POLST works, where it can be improved, and to what unforeseen consequences it might inadvertently contribute, if any. Experience and data drawn from experience should be the basis for any assessment of POLST.

Regrettably, the *Linacre Quarterly* article is not grounded in the broad-based experience of those who employ POLST. It ends up being based on some serious misunderstandings of POLST, generalizations, misquoting of published studies, hypotheticals, and insinuation. For example, early in the article the authors write: “[T]he form is immediately invested with the status of an actionable medical order, *without regard to patient decisional capacity*” (italics added).<sup>2</sup> The latter is simply not true. Or, “we believe that the use of POLST forms will create unacceptable risks from both the perspective of good medical decision-making and good ethical decision-making.

...[T]he benefits will be grossly outweighed by the harms and abuses that will result from the use of the POLST form and the campaign to promote it.”<sup>3</sup> POLST has been operative in several states for quite some time. What is the empirical evidence for the harms and abuses? And here it is not sufficient to point to one or two examples, as the authors are prone to do; rather, one must demonstrate widespread harms and abuses. If we abandoned everything because of one or two harms or abuses, nothing would survive. This type of generalization is unacceptable. Or, “The forms are completed prior to the time that many people know the exact nature of their conditions or the range of reasonable treatment options.”<sup>4</sup> This statement reflects a serious misunderstanding of POLST and how it works. Examples could easily be multiplied, but just one more. The authors cite four foundations that have provided financial support for promoting POLST and go on to say, “these same foundations also have provided significant funding for right-to-die-organizations. ... Perhaps, then, it is not coincidental that POLST programs are strongly supported by right-to-die coalitions and some palliative care organizations.”<sup>5</sup> The insinuation here obviously is that POLST is associated with efforts to promote assisted suicide (and, sadly, that palliative care is associated with the right-to-die). One of the authors of the *Linacre* article elsewhere has made an explicit connection between POLST and assisted suicide and euthanasia. This is inference. Where is the concrete evidence? Such an insinuation not only casts

POLST in a negative and dangerous light, but implicitly questions the integrity of clinicians across the country who are supportive of and employ POLST. It also implicitly casts aspersions on Catholic health care and its faithfulness to the Catholic tradition in end-of-life matters. There is much more, but that will be left to Fr. Tom Nairn’s analysis.

Unfortunately, the *Linacre* article together with opposition to POLST by two State Catholic Conferences have led to a blog on a well-known and widely-used bioethics website titled “Dangerous Catholic Attack on POLST” ([www.bioethics.net/2013/07/dangerous-catholic-attack-on-polst/](http://www.bioethics.net/2013/07/dangerous-catholic-attack-on-polst/)). While the author does offer some qualifications and acknowledges that Catholic opposition to POLST is not monolithic, one could come away with the impression that, generally speaking, Catholicism opposes POLST. And it’s quite easy to jump from that to the conclusion that Catholics oppose efforts to achieve good end-of-life care.

Along those lines, sadly, an article recently appeared in *Ethics and Medics* (“The Rise of Stealth Euthanasia,” 38, no. 6 [June 2013]: pp. 1-3) that claims that “many hospice and palliative care physicians are urging, and actually performing, euthanasia by stealth. ... It is horrifying that health care professionals—those to whom we entrust our lives—intentionally hasten death while pretending to be providing appropriate end-of-life care.”<sup>6</sup> Hastening of death occurs, according to the authors, by using opioids and

palliative sedation to intentionally kill patients under the guise of double effect.

The authors also claim that The National Hospice and Palliative Care Organization, “the leading trade organization for this industry, is the actual legal and corporate successor to the Euthanasia Society of America.”<sup>7</sup> They observe: “Indeed, the culture of death has deeply infiltrated the hospice and palliative care industry! Despite this, *some* health care professionals courageously remain faithful to the original mission of providing care until the natural end of life of a patient” (italics added).<sup>8</sup>

Is it possible that some physicians are intentionally hastening death? Of course. Is it possible that this is occurring in hospice and palliative care? Yes. Is this commonplace in hospice and palliative care? There is no evidence that it is widespread and the authors do not offer any such evidence. They are making serious, damaging claims that are empirically unsubstantiated as to the widespread nature of these abuses and, in so doing, they poison the waters. They create suspicion that can easily begin to undermine the development and sustaining of palliative care programs and the growing acceptance of hospice by physicians and the public, and thereby harm the advances that have been made in end-of-life care. POLST, hospice and palliative care are all attempts to improve end-of-life care (though palliative care is not limited to terminal illness), to address and alleviate the very factors and symptoms that make death even more

dreaded and difficult, and that make assisted death appealing to many. Those who undermine efforts to improve care at the end of life are playing into the hands of proponents of assisted suicide and euthanasia. Instead of throwing out the baby with the bathwater, they would do well to attempt to correct shortcomings, misunderstandings and abuses in a more focused, nuanced and even-handed manner.

R.H.

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<sup>1</sup> Christian Brugger, Louis Breschi, Edith Mary Hart, et al., “The POLST Paradigm and Form: Facts and Analysis,” *Linacre Quarterly* 80, no. 2 (May 2013): 103-138.

<sup>2</sup> *Ibid.*, p. 105.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*, p. 114.

<sup>5</sup> *Ibid.*, p. 107.

<sup>6</sup> Ralph Capone, Kenneth Stevens, Jr., Julie Grimstad, and Ron Panzer, “The Rise of Stealth Euthanasia,” *Ethics and Medics* 38, no. 6 (June 2013): 2.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*