



HOLY CROSS HOSPITAL
A Member of Holy Cross Health System

ADMINISTRATIVE MANUAL

TITLE: CONSENT TO WITHHOLD OR WITHDRAW LIFE-SUSTAINING TREATMENT

CONTROLLING DEPARTMENT: EXECUTIVE ADMINISTRATION

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Hospitalwide Policy

APPROVAL DISTRIBUTION LIST

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Policy Review Notation (Controlling Department)

By: _____ Date: _____
 By: _____ Date: _____
 By: _____ Date: _____

SUBJECT: CONSENT TO WITHHOLD OR WITHDRAW LIFE-SUSTAINING TREATMENT

PURPOSE: To provide guidelines for withholding or withdrawing life-sustaining treatment for adult patients. This policy does not address withholding of withdrawing treatment for minors.

REFERENCES: Maryland Health Care Decision Act
Holy Cross Hospital Ethical Guidelines
79 Opinions of the Attorney General
JCAHO Accreditation Manual

POLICY:

I. DEFINITIONS

- A. "Agent" means an adult appointed to make health care decisions for a patient under an advance directive made in accordance with the provisions the Maryland Health Care Decision Act.
- B. "End-stage condition" means an advanced, progressive, irreversible condition caused by injury, disease, or illness: (1) that has caused severe and permanent deterioration indicated by incompetency and complete physical dependency; and (2) for which, to a reasonable degree of medical certainty, treatment of the irreversible condition would be medically ineffective.
- C. "Incapable of making an informed decisions" means the inability of an adult patient to make an informed decision about the provision, withholding, or withdrawal of a specific medical treatment or course of treatment because the patient is unable to understand the nature, extent, or probable consequences of the proposed treatment or course of treatment, is unable to make a rational evaluation of the burdens, risks, and benefits of the treatment or course of treatment, or is unable to communicate a decision.
- D. "Life-sustaining procedure" means any medical procedure, treatment, or intervention that utilizes mechanical or other artificial means to sustain or restore a spontaneous vital function; and is of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition, persistent vegetative state, or end-stage condition. "Life-sustaining procedure: includes artificially administered hydration and nutrition, and cardiopulmonary resuscitation.

- E. "Medically ineffective treatment" means treatment that, to a reasonable degree of medical certainty, will not prevent or reduce the deterioration of the health of the patient or prevent the death of the patient.
- F. "Persistent vegetative state" means a condition caused by injury, disease, or illness: a) in which a patient has suffered a loss of consciousness, exhibiting no behavioral evidence of self-awareness or awareness of surroundings in a learned manner other than reflex activity of muscles and nerves for low level conditioned response; and b) from which, after the passage of a medically appropriate period of time, it can be determined, to a reasonable degree of medical certainty, that there can be no recovery.
- G. A "Surrogate" is an adult who has not been appointed under an advance directive but rather is authorized by Maryland law to provide consent, under certain circumstances, for an individual who is incapable of making informed decisions.
- H. "Terminal condition" means an incurable condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, makes death imminent and from which, despite the application of life-sustaining procedures, there can be no recovery.

II. PROCESS FOR REACHING DECISIONS

- A. It is the responsibility of the attending physician to initiate any discussions with a patient and/or his agent or surrogate regarding the withholding or withdrawing of life-sustaining treatment; this discussion should take place only after over-all goals and objectives of treatment have been fully discussed.
- B. Patient wishes, as expressed in a valid advance directive, will be respected by all physicians and other health care professionals involved in the care of the patient.
- C. The patient and/or his agent or surrogate may choose to consult with representatives with whom he/she is more closely related or shares the same beliefs. Pastoral Care may assist in contacting such persons.
- D. Other health care professionals directly involved with the care of the patient may participate in discussions with the patient and/or his agent or surrogate; the attending physician should be kept informed of the substance of any discussions.

- E. The Ethical Advisory Committee may be consulted to assist in the communication/decision making process.
- F. Except in those circumstances where treatment has been determined to be medically ineffective (See 4.0 **Withholding or Withdrawing Medically Ineffective Treatment**), life-sustaining treatment will not be withheld or withdrawn without the agreement and consent of the patient, his/her agent or surrogate (See attached **DO NOT RESUSCITATE PHYSICIAN ORDER FORM**).

III. AUTHORITY TO CONSENT TO WITHHOLDING OR WITHDRAWING TREATMENT.

- A. Any competent adult patient may consent to the withholding or withdrawing of life-sustaining treatment for him/herself.
- B. If a patient is not competent and has been certified as being incapable of making an informed decision regarding treatment (See attached **Physicians Certification of Incapacity**), consent to withhold or withdraw life-sustaining treatment may be obtained from:
 - 1. An agent who has been appointed under a valid advance directive; or
 - 2. Under certain circumstances (listed below) from a court appointed guardian or from the following surrogates in order of priority: (first available of)
 - spouse;
 - adult child
 - parent
 - adult sibling
 - friend/relative (after completing **Affidavit of Relationship to Patient** form.)
 - 3. Circumstances where a court appointed guardian may give consent to withhold or withdraw life-sustaining treatment are limited to those where the guardian has received prior court approval for making decisions about withholding or withdrawing treatment (Note: in cases where the guardian has not received such approval, notify the Risk Management Department or the Administrative Coordinator to obtain the advice of legal counsel).

4. Circumstances where a surrogate has authority to consent to the withholding or withdrawing of treatment are limited to those where the patient has been certified by two physicians as being in a terminal condition*, a persistent vegetative state, or an end-stage condition (See attached **Physician Certification Condition**.)

*Or in the case of cardio-pulmonary resuscitation, that a cardiac arrest would, regardless of the immediate outcome, signify the beginning of a terminal condition.

- C. An oral advance directive shall have the same effect as a written advance directive if made in the presence of the attending physician and one witness and if the substance of the oral advance directive is documented as part of the individual's medical record. The documentation shall be dated and signed by the physician and the witness.

IV. WITHHOLDING OR WITHDRAWING MEDICALLY INEFFECTIVE TREATMENT

- A. A patient's attending physician may withhold or withdraw life-sustaining treatment without consent if he/she, and a second physician, certify that the treatment would be medically ineffective (See attached **Physician Certification of Medically Ineffective Treatment**).

*If a patient is being treated in the emergency room and only one physician is available, the certification of a second physician is not required.

- B. In order to be considered medically ineffective, it must be determined to a reasonable degree of medical certainty that the treatment will neither prevent or reduce the deterioration of the health of the patient nor prevent the death of the patient.

*Note: Cardiac arrest in some patients may represent the start of an irreversible dying process that cannot be prevented by CPR regardless of the immediate outcome. Under such circumstances, a physician may determine that CPR would be medically ineffective.

- C. In any circumstance where treatment is going to be withheld on the basis that it is medically ineffective, the attending physician must notify the patient or the patient's agent or surrogate of the decision. This notification and any discussions should be documented in the progress notes.

But in Israel Neustadter's circumstance, because physicians believed life-sustaining treatment, while effective in the short-term, was "not in the patient's best interests," they somehow reserved the right to withhold it without notification and against family's documented wishes.

V. PROCESS FOR RESOLVING CONFLICTS

- A. In the event of a conflict between the attending physician and the patient or his/her agent or surrogate over a decision to withhold or withdraw life-sustaining treatment, consultation should be obtained from the Ethical Advisory Committee
- B. Appropriate support services, such as Social Services or Pastoral Care, should be consulted to help support the patient or family.
- C. If, after consultation with the Ethical Advisory Committee and provision of appropriate support services, the conflict remains unresolved, the patient or his/her agent or surrogate should be informed of the right to request a transfer to another health care provider or institution.
- D. Every reasonable effort will be made to assist the patient or his/her agent or surrogate in facilitating the transfer.
- E. Pending the transfer, the patient or his/her agent or surrogate's treatment requests will be honored if the failure to honor them would likely result in the death of the patient.

VI. SUPPORT AND COMFORT OF THE PATIENT

- A. Measures for psychological support and physical comfort should be continued in all patients regardless of other treatments that may be withheld or withdrawn.
- B. Reasonable efforts should be made to provide the patient with food and water by mouth and to assist the patient as needed to eat and drink voluntarily.

**DO NOT RESUSCITATE
PHYSICIAN ORDER FORM**

Addressograph

- IMPORTANT:**
- * If Patient is not competent to make his/her own decisions, see administrative policy "CONSENT TO WITHHOLD OR WITHDRAWAL TREATMENT". Completion of other forms is required.
 - * See reverse side for guidelines for completion of this form.

SECTION I

DO NOT RESUSCITATE

I have discussed the decision to withhold cardiopulmonary resuscitation from _____
with _____ (_____) PATIENT NAME
PATIENT/AGENT/SURROGATE RELATIONSHIP TO PATIENT

On the basis of this discussion or on the basis of an advance directive, if a cardiopulmonary arrest occurs, NO resuscitative measures are to be performed.

PHYSICIAN
SIGNATURE: _____ DATE: _____ TIME: _____

SECTION II

PRE-ARREST ORDERS

Before cardiopulmonary arrest occurs, the patient is a candidate for the following:

- Intubation
- Lab/Diagnostics
- IV Pressor Therapy
- Defibrillation
- IV Antiarrhythmic Therapy
- Cardioversion
- Other _____
- No to all of the above

PHYSICIAN
SIGNATURE: _____ DATE: _____ TIME: _____

SECTION III

CHANGE - IN - STATUS ORDERS

1. DNR ORDER RESCINDED

PHYSICIAN
SIGNATURE: _____ DATE: _____ TIME: _____

2. SEE UPDATED DNR ORDERS

PHYSICIAN
SIGNATURE: _____ DATE: _____ TIME: _____

DO NOT RESUSCITATE

GUIDELINES FOR COMPLETION OF FORM

1. The DNR order is discussed with the patient or responsible decision-maker prior to writing the order. (See administrative policy "Consent to Withhold or Withdrawal Treatment")

Discussion includes:

- a. The fundamental understanding of resuscitation therapy.
 - b. The appropriate use of this therapy.
 - c. Conditions which would include or preclude the patient as a candidate for this therapy.
 - d. The physician's recommendation regarding the therapy for this individual patient.
2. Patient or responsible decision-maker, in conjunction with the attending physician, makes the decision regarding the DNR status. If there is a conflict, refer to the policy concerning withholding of treatment.
 3. If the decision is to write the DNR order, the procedure is as follows:
 - a. The attending physician is responsible for completion of the DNR order form within 24 hours of order. (Forms available at Nursing Unit)

Section I - DO NOT RESUSCITATE ORDER

1. Indicate name of patient and other if discussed with other than patient.
2. Sign and indicate date and time.

Section II - PRE-ARREST ORDERS

1. Determine and check appropriate treatments for this patient to receive previous to any arrest.
2. Sign and indicate date and time.

Section III - CHANGE - IN - STATUS ORDERS

This section is to be used only when the

1. DNR order is rescinded, or
 2. A new DNR order form has been completed.
- b. Once completed, the newly written DNR form is placed IN FRONT of the physician orders section of the patient chart by the physician. The unit secretary or RN will transcribe the DNR orders to the patient care profile (PCP) and transfer the DNR form to the front of the chart. The "ACTIVE" DNR form will remain in the front of the chart and is not to be thinned. "INACTIVE" DNR orders are placed in the "MISCELLANEOUS" section of the chart. "INACTIVE" DNR orders will not be thinned from the "MISCELLANEOUS" section.
 - c. The DNR order must be reconsidered when the patient is transferred to or from a critical care unit, the operating room or at change of attending physician.

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PHYSICIAN CERTIFICATION
OF INCAPACITY

This Physician Certification of Incapacity must be completed by the attending physician and a second physician prior to obtaining consent for treatment from a health care agent or surrogate.

If the patient is unconscious, certification of the attending physician is sufficient and certification by a second physician is not required.

Unless the condition of the patient changes (i.e. an unconscious patient regains consciousness), this certification shall remain in effect for the duration of this hospital admission.

A) I, _____, M.D., am a physician licensed by the State of Maryland. I hereby certify that based upon my examination of this patient, _____, he/she is incapable of making an informed decision regarding treatment. * In arriving at this determination, I examined the patient on _____ (Date) at _____ (Time). **

(Physician's Signature)

(Date and Time)

B) I, _____, M.D., am a physician licensed by the State of Maryland. I hereby certify that based upon my examination of this patient, _____, he/she is incapable of making an informed decision regarding treatment. * In arriving at this determination, I examined the patient on _____ (Date) at _____ (Time). **

(Physician's Signature)

(Date and Time)

*Incapable of making an informed decision - means the inability of an adult patient to make an informed decision about the provision, withholding, or withdrawal of a specific medical treatment or course of treatment because the patient is unable to understand the nature, extent, or probable consequences of the proposed treatment, is unable to make a rational evaluation of the burdens, risks, and benefits of the treatment, or is unable to communicate a decision.

**At least one of the certifying physicians must have examined the patient within two hours of signing this certification.

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**AFFIDAVIT OF
RELATIONSHIP TO PATIENT**

I, _____, certify that I am a friend/relative (circle one) of _____, who is a patient at this hospital on the date this form is completed. To the best of my knowledge, this patient has no agent appointed under a durable power of attorney for healthcare, court-appointed guardian, spouse, adult child, parent, or adult sibling who can be contacted to make decisions on the patient's behalf.

I have known the patient for approximately _____ years. For the following reasons, I believe that I have had sufficiently regular contact with the patient to be familiar with his/her activities, health and personal beliefs, and that I am thus qualified to make decisions on his/her behalf:

In making decisions on behalf of this patient, I certify that I will consider the patient's: current diagnosis and prognosis with and without the treatment at issue; expressed preferences regarding the type of treatment at issue; relevant religious and moral beliefs and personal values; behavior, attitudes, and past conduct with respect to the treatment at issue and medical treatment generally; reactions to the provision, or withholding or withdrawal of similar treatment to another individual; and expressed concerns about the effect on family and intimate friends of the patient if treatment were provided, withheld, or withdrawn.

I solemnly affirm under the penalties of perjury that the contents of the above affidavit are true to the best of my knowledge, information, and belief.

Date

Signature

Witness signature

Printed name

To be used for patients who are certified incapacitated by two physicians and who have no agent appointed, court-appointed guardian, spouse, adult children, parents, or adult siblings available to make decisions on the patient's behalf.

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PHYSICIAN CERTIFICATION
OF CONDITION

This Physician Certification of Condition must be completed by the attending physician and a second physician prior to obtaining consent form a surrogate to withhold or withdraw life sustaining treatment.

A) I, _____, M.D., am a physician licensed by the State of Maryland. I hereby certify that based upon my examination of this patient, _____, he/she is in:

- (circle one) a terminal condition
 an end stage condition
 a persistent vegetative state*

(Physician's Signature)

(Date and Time)

B) I, _____, M.D., am a physician licensed by the State of Maryland. I hereby certify that based upon my examination of this patient, _____, he/she is in:

- (circle one) a terminal condition
 an end stage condition
 a persistent vegetative state*

(Physician's Signature)

(Date and Time)

*For certifying persistent vegetative state, one of the two physicians must be a neurologist, neurosurgeon, or other physician who has special expertise in the evaluation of cognitive function.

Definitions:

"Terminal Condition" means an incurable condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, makes death imminent and from which, despite the application of life-sustaining procedures, there can be no recovery.

"End stage condition" means an advanced, progressive, irreversible condition caused by injury, disease, or illness:

- (1) that has caused severe and permanent deterioration indicated by incompetency and complete physical dependency; and
- (2) for which, to a reasonable degree of medical certainty, treatment of the irreversible condition would be medically ineffective.

"Persistent vegetative state" means a condition caused by injury, disease, or illness: a) in which a patient has suffered a loss of consciousness, exhibiting no behavior evidence of self-awareness or awareness of surroundings in a learned manner other than reflex activity of muscles and nerves for low level conditioned response; and b) from which, after the passage of a medically appropriate period of time, it can be determined, to a reasonable degree of medical certainty that there can be no recovery.

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**PHYSICIAN CERTIFICATION OF
MEDICALLY INEFFECTIVE TREATMENT**

This Physician Certification of Medically Ineffective Treatment must be completed by the attending physician and a second physician prior to withholding or withdrawing life sustaining treatment (including CPR) on the basis that the treatment would be medically ineffective.

- A) I, _____, M.D., am a physician licensed by the State of Maryland. I hereby certify based upon the current medical condition of this patient, _____, the following treatment, _____, would neither prevent or reduce the deterioration of the health of this individual nor prevent his or her impending death.

(Physician's Signature)

(Date and Time)

- B) I, _____, M.D., am a physician licensed by the State of Maryland. I hereby certify based upon the current medical condition of this patient, _____, the following treatment, _____, would neither prevent or reduce the deterioration of the health of this individual nor prevent his or her impending death.

(Physician's Signature)

(Date and Time)