Glendale Memorial Hospital and Health Center
A Dignity Health Member

ADMINISTRATIVE SERVICES MANUAL

SUBJECT: MEDICALLY INAPPROPRIATE AND/OR MEDICALLY INEFFECTIVE TREATMENT AT THE END OF LIFE

EFFECTIVE DATE: **12-18-13**	**AUTHORITY:** **Administration**
REVIEWED AND APPROVED BY: **Bioethics Committee Chair** **DATE: 9/24/13**	**ACCOUNTABILITY:** **Medical Staff** **Clinical Staff**
REFERENCE: Health Care Decisions Law, California Probate Code Sections 4600-4805. American Medical Association Guidelines, AMA E-2.037 "Medical Futility in End-of-Life Care." The Society of Critical Care Medicine: The American Thoracic Society; "A Primer on Critical Care for Patients and Their Families." GMHHC Policy RI.106: Bioethics Committee Mission, Purpose, and Process Unless otherwise stated, all statutory references in this Policy and Procedure are to the California Probate Code, as amended from time to time. (See Health Care Decisions Law, California Probate Code Sections 4600-4805).	

PURPOSE:

To provide a process for addressing goals of care when a requested end-of-life health care intervention is determined to be either medically inappropriate and/or medically ineffective.

To describe the procedural mechanisms for addressing dilemmas that may occur following such a determination.

DECLARATIONS:

1. In recognition of the dignity and privacy a person has a right to expect, the law recognizes that an adult has the fundamental right to control the decisions relating to his or her own health care, including the decision to have life-sustaining treatment withheld or withdrawn.

2. Modern technology has made possible the artificial prolongation of human life. In the interest of protecting individual autonomy, this prolongation of the process of dying for a person for whom continued health care does not improve the prognosis for recovery may violate patient dignity and cause unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the person.

3. In the absence of controversy, a court is normally not the proper forum in which to make health care decisions, including decisions regarding life-sustaining treatment [Section 4650].

POLICY:

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All applicable federal, California and local laws, regulations, ordinances and orders with respect to health care decisions as they relate to end of life issues will be followed.

Some patient's/surrogate's instructions or decisions may be medically inappropriate or they may request an intervention that is ineffective. This policy provides a process to ensure respect and consideration of all relevant viewpoints. Patients have the right to permit or refuse recommended treatments.

This policy shall not be implemented for economic or capacity management reasons, nor is it intended to exclude considerations based on religious or cultural values. This policy will only be invoked in egregious cases of clearly medically inappropriate and/or medically ineffective treatment.

This policy is not intended to authorize or require a health care provider or a health care institution to provide health care contrary to generally accepted health care standards applicable to the health care provider or to the health care institution [Section 4654].

This policy is not intended to condone, authorize, or approve mercy killing, assisted suicide, or euthanasia.

This policy is not intended to permit any affirmative or deliberate act or omission to end life other than withholding or withdrawing health care based on a patient's decision, an Advance Health Care Directive, the decision of an authorized surrogate decision-maker, or as otherwise provided by applicable law, to permit the natural process of dying. [Section 4653].

DEFINITIONS:

Advance Healthcare Directive (AHCD): A form that documents the decisions of a person/patient with capacity regarding what type of healthcare they want to receive or not receive, under specific circumstances. It documents specific instructions about any aspect of the patient's healthcare, whether or not they appoint an agent, such as under a power of attorney document. Choices are provided to the patient to express their wishes regarding the provision, withholding, or withdrawing of treatment to keep them alive, as well as the provision for pain relief.

Medically Inappropriate and/or Medically Ineffective Treatment in End of Life Health Care: Medical treatment or health care that:

1. Has no significant therapeutic benefit
2. Offers no reasonable expectation of achieving the patient's treatment goals
3. May cause undue suffering, loss of dignity, or unnecessary pain
4. Is contrary to generally accepted health care standards applicable to health care institutions and/or health care providers.
5. Palliative treatment to relieve pain and suffering and to afford maximum comfort care is not considered medically inappropriate and/or medically ineffective treatment in end of life health care, and is always indicated and appropriate in the end of life setting.

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Multidisciplinary Treating Team: A group of individuals who are directly involved with the care of the patient, including attending physician, nurse familiar with the patient, social worker familiar with the patient, chaplain familiar with the patient, and, if available and appropriate, consulting clinicians.

Surrogate: An adult, other than a patient's agent or conservator, who is legally authorized to make health care decisions on behalf of an incapacitated patient.

PROCEDURE:

I. Establish Goals of Care

A. The health care values and goals of the patient will be documented and patient autonomy will be respected. Goals must be reasonably obtainable and consistent with the patient's clinical status and prognosis. There should be consensus regarding goals of care among all members of the multidisciplinary treating team; (e.g., attending physician, Social Workers, Nurses, and Consulting Physicians). Goals will be documented in the patient's medical record.

B. Goals will state specific outcomes that would be acceptable to the patient, and not simply be a restatement of therapeutic plans. Ideally, treatment decisions are shared and arrived at jointly by the patient or surrogate and the attending physician.

C. Patients and families will be reassured that the treating team remains dedicated to providing all appropriate care consistent with the patient's treatment goals.

D. There may come a point at which the patient's condition may dictate that medical technology is ineffective, merely prolongs the dying process, and is not able to meet treatment goals regardless of the level of care. At such point, treatment goals will be revisited with a focus on patient comfort and dignity.

E. Ongoing discussions with the patient or family about treatment goals and values, as well as naming of a surrogate, will occur prior to an acute illness. The completion of an Advance Directive will be encouraged.

F. If the attending physician has been unable to have a meaningful prior conversation with the patient, if the patient is unable to participate in the discussion, and if there is no Advance Directive, the attending physician will attempt to clarify the goals with the patient's surrogate.

G. If the patient or surrogate and the treating team cannot agree on medically appropriate or effective treatment goals, a bioethics consultation will be obtained and the normal procedure for a bioethics consultation will be followed.

H. A brief period of time to incorporate the information from the bioethics consultation might be

helpful for the patient/surrogate following the consultation. If so, a clear time frame for the family to make a decision will be discussed with the family at the consultation.

II. Declining to Comply with an Individual Health Care Instruction or Decision

A. If the bioethics consultation is not successful in resolving differences in goals between the patient/surrogate and the multidisciplinary treating team, the treating team may decline to comply with an instruction or decision that requires medically inappropriate or ineffective health care that is contrary to generally accepted health care standards applicable to the health care provider or the health care institution.

B. Special Bioethics Review Committee

1. If the patient/surrogate and treating team cannot come to agreement regarding the goals of treatment, the case will be referred to the Medical Staff's Special Bioethics Review Committee. The Special Bioethics Review Committee is a sub-committee of the Medical Staff's Bioethics Committee, an organized committee of the Medical Staff having the responsibility to provide conflict resolution and attempt to discern the right action in a complex bioethical dilemma.

2. The Review Committee will be comprised of members of the Medical Staff's Bioethics Committee, and will include:

a) The Chair of Bioethics Committee or the hospital's bioethicist

b) One non-treating physician

c) One nurse or social worker

d) One community member (If a community member is not available within a reasonable period of time, another member of the Bioethics committee may substitute.)

e) Medical and psychosocial-spiritual experts will be consulted as necessary as determined by the Special Bioethics Review Committee.

3. The Review Committee will meet with the patient (or the surrogate if the patient lacks capacity) and with the members of the multidisciplinary treating team.

4. The functions of the Special Bioethics Review Committee will be to:

a) Attempt to reconcile differences between the treating team and the patient/surrogate. The Review Committee will explore goals of care, prognosis, and other relevant material normally reviewed in a bioethics consultation.

b) Review the patient's medical record and speak with treating physicians and patient/surrogate to understand if the patient has expressed treatment

preferences (substituted judgment) and/or to identify the patient's best interests.

c) Determination that a treatment is medically inappropriate and/or medically ineffective in end of life health care requires unanimous agreement of all members of the Review Committee. If agreement is not achieved, the Review Committee will make a recommendation regarding whether a treatment plan is medically inappropriate and/or medically ineffective treatment in end of life health care, as set forth in this policy.

C. If the Bioethics Special Review committee and the treating team determine that the patient/surrogate is requesting/receiving medically inappropriate and/or medically ineffective treatment in end of life health care, and are of the opinion that further time or other measures will not change the physiologic circumstances, the Chair of the Review Committee and the patient's attending physician will then promptly notify the patient/surrogate in writing that the treatment team declines to comply with a patient's/surrogate's health care instruction or health care decision.

D. An explanation as to why the requested health care is considered to be medically inappropriate and/or medically ineffective treatment in end of life health care will be given to the patient/surrogate by the Chair of the Review Committee in conjunction with the patient's attending physician.

III. Petition for Judicial Review

A. When the patient/surrogate is informed of the health care provider and/or health care institution's decision not to comply with a patient's Advance Directive or health care decision (as discussed above), the Chair of the Review Committee will also notify the patient/surrogate that the patient/surrogate may file a Petition for Judicial Review under the Health Care Decisions Law compelling the health care provider and/or health care institution to honor the patient's individual health care instructions or the authority of the patient's surrogate. [See Health Care Decisions Law, California Probate Code Sections 4765 & 4766].

B. If, after ten (10) business days from notifying the patient/surrogate of his/her options for Judicial Review under the Health Care Decisions Law, and all reasonable efforts to arrange transfer have been unsuccessful, the medically inappropriate and/or medically ineffective treatment in end of life health care may be discontinued.

C. If within this ten (10) business day period, the attending physician or the hospital receives notice that a patient/surrogate has filed for Judicial Review, the treatment will be continued until the outcome of such Judicial Review. In all cases, appropriate pain relief and other palliative care shall be continued.

IV. Statutory Requirements

A. Under the California Health Care Decisions Law, a health care provider or health care institution that declines to comply with an individual health care instruction or health care decision, will do all of the following:

1. Promptly inform the patient, if possible, and any person then authorized to make health care decisions for the patient.

2. Unless the patient or surrogate refuses assistance, immediately make all reasonable efforts to assist in the transfer of the patient to another health care provider and institution that is willing to comply with the instruction or decision.

3. Provide continuing care to the patient until a transfer can be accomplished or until it appears that a transfer cannot be accomplished. In all cases, appropriate pain relief and other palliative care shall be continued [Section 4736].

V. Immunity

A. A health care provider or health care institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or health care institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for declining to comply with an individual health care instruction or health care decision that requires medically ineffective health care or health care contrary to generally accepted health care standards applicable to the health care provider or to the health care institution [Sections 4735 & 4740(d)].