Regions Hospital®

Subject Decision-Making Process for Patients Without a Surrogate	Attachments ☐ Yes ☒ No
Key words	**Number** **RH-RI-PC-10-51**
Category Ethics, Rights and Responsibilities (RI)	**Effective Date** **November 2008**
Manual Patient Care Manual	**Last Review Date** **October 2011**
Issued By Ethics Committee	**Next Review Date** **September 2014**
Applicable All Regions Employees	**Origination Date** **November 2008**
	Retired Date
Review Responsibility Ethics Committee, Patient Care Committee	**Contact** Nursing Administration

I. PURPOSE

To protect the interests of patients who lack an advance health care directive or a surrogate decision-maker by providing a process whereby treatment decisions can be made for them.

II. POLICY

This policy provides a process whereby a shared decision regarding treatment decisions for incapacitated patients without a surrogate or advance health care directive may be warranted. If the patient regains decision-making capacity at any time during this process, the patient's stated medical goals and treatment decisions will take priority.

III. PROCEDURE(S)

A. The patient must be determined to lack the capacity to make informed decisions regarding health care treatments. This assessment is to be made by the attending physician and documented in the patient's electronic health record. The primary care team including the unit social worker are responsible for the following steps:

1. The physician documents the patient's current condition, diagnosis and prognosis, as well the diagnostic and treatment decisions that have to be made. A second staff physician reviews the case and concurs with the physician's judgments.
2. The unit social worker completes a thorough search for family or friends who are willing to serve as the patient's surrogate decision-maker, for any advance health care directive or other document that communicates a patient's treatment preferences and health care values. If no one is willing to serve as the patient's surrogate and no written directives found the social worker will notify the appropriate County Adult Protective Services department for potential guardianship and notifies the legal department of the situation for their guidance as appropriate. If the County declines to take the guardianship case then this policy process will continue.
3. The social worker will document the patient's history, list of known family and friends, any

record of expression of the patient's health care related values and wishes (e.g., interviews with other providers, notes from place of residence, recollections from friends/family, etc.) In cases when there is no person closely associated with the patient, but there are persons who both care about the patient and have some relevant knowledge of the patient, such relations should be involved in these discussions.

4. Once items 1-3 have been completed, the attending physician requests an ethics consultation for the purposes of health care decision-making.
5. After the ethics consultation process (see below) is completed, the physician will document the goals of care and enter appropriate treatment orders for the patient reflecting the ethics consult recommendations.

B. Ethics Consult Team Responsibilities:

1. The ethics consultant on-call will receive the consult request, convene and chair the consult team meeting.
2. The attending physician will meet with the Ethics Consult Team and answer any questions from the consult team members.
3. Any family or friends will be invited to meet with the Ethics Consult Team to share their thoughts on the patient's wishes and values based on their knowledge of and relationship(s) with the patient.
4. The convened Ethics Consult Team will then review all of the information to make a treatment recommendation that honors the patient's wishes.
5. If there is inadequate information to make a treatment recommendation based upon previously expressed wishes (subjective standard) or known values of the patient (substituted judgment) then the Ethics Consult Team will make a recommendation based on their considered judgment of the benefits and burdens of alternative treatments for the patient (best interests standard).
6. The ethics consult convener then documents this discussion and treatment recommendations. The treatment recommendations are communicated to the attending physician and care team for final review prior to implementation.
7. If the Ethics Consult Team cannot reach a consensus regarding medical decisions for the patient, the case will be presented to the HealthPartners Ethics Committee for their review, a group representing diverse perspectives and backgrounds. The goal of this review is to reach a consensus regarding medical decisions for the patient in the light of further discussion and deliberation. If this cannot be achieved, a legal request for a guardian will be pursued, but this should be seen as a last resort.
8. Each case will be presented for review at the next convened HealthPartners Ethics Committee.

IV. DEFINITIONS NOT APPLICABLE

V. COMPLIANCE

Failure to comply with this policy or procedure may result in disciplinary action.

VI. ATTACHMENTS NOT APPLICABLE

VII. OTHER RESOURCES NOT APPLICABLE

VIII. APPROVAL(S)

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IX. ENDORSEMENT

HealthPartners Ethics Committee
Patient Care Committee: October 2011