

## **Title: Withholding and Withdrawal of Life-Sustaining Treatment**

### **I. POLICY**

It is the policy of [HOSPITAL NAME] to withhold or withdraw life-sustaining interventions when a patient expresses a preference to have such interventions withheld or withdrawn, when the provision or continuation of such interventions is inconsistent with the patient's known goals and values or known previously expressed preferences, when the provision or continuation of life-sustaining interventions is judged by the patient's primary decision-makers not to be in the patient's best interest, or when the provision or continuation of life-sustaining interventions is judged by the patient's Physician of Record (or designee) to be medically inappropriate.

### **II. DEFINITIONS**

- A. *Life-sustaining Treatment* – medical intervention without which there is reasonable medical expectation the patient will die within a fairly brief time period.
- B. *Legal Representative* – an individual authorized to make healthcare decisions for a patient due to appointment by the Courts to be the patient's Conservator or designated in a Power of Attorney for Health Care (or other legally-recognized advance medical directive) to be the patient's Agent or Attorney-in-Fact.
- C. *Surrogate Decision-Maker* – an adult recognized to make decisions for the patient when there is no Legal Representative.
- D. *Physician of Record* – a member of the Medical Staff who, without reference to Medical Staff membership category, is the principal provider of professional services to the patient during hospitalization and directs the care for that patient during the course of the stay as evidenced by signed written orders and progress notes. The Physician of Record may designate another Physician or a Licensed Independent Practitioner to act on his or her behalf.
- E. *Physician* – a member of the Medical Staff with appropriate clinical privileges to provide indicated medical services.
- F. *Licensed Independent Practitioner* – a member of the Medical Staff who holds a License or a Physician-in-Training who holds a License and who is enrolled in an approved postgraduate Physician-in-Training program at the Medical Center where engaging in the practice of medicine is required as part of such training program.
- G. *POLST* – a "Physician Orders for Life-Sustaining Treatment" form, approved by the California Legislature, which indicates previously ordered medical interventions to be provided or withheld for a patient (based on, at the time of completion, the patient's medical condition and preferences) and which the patient or the patient's Legal Representative or Surrogate is responsible to present to staff upon admission (or as soon after as possible).

### **III. PURPOSE:**

To outline standardized processes for withholding and withdrawing life-sustaining treatments.

## **IV. PROCEDURE:**

### **A. ADULT WITH CAPACITY TO MAKE INFORMED DECISIONS**

If the patient is an adult and is capable of making an informed decision, the Physician of Record (or designee) must discuss his or her recommendations with the patient regarding current, proposed, and alternative life-sustaining treatments, outlining the risks, benefits, and probable outcomes of receiving versus withholding or withdrawing such treatments. With the patient's assent, the Physician of Record (or designee) will withhold or order the withdrawal of life-sustaining treatments.

*Exception: See Section E below.*

When the patient requests that life-sustaining treatments be withheld or withdrawn, the Physician of Record (or designee) should discuss this request with the patient in order to ensure the Physician of Record (or designee) understands why such treatments are viewed by the patient as not being beneficial. Discussion should focus on the patient's goals and factors such as:

- Relief of suffering;
- Preservation of life;
- Likelihood of restoration of function, and
- The quality and extent of sustained life.

The Physician of Record (or designee) must make every effort to honor the patient's preference and shall document all relevant discussions and withhold or order the withdrawal of life-sustaining treatments. The Physician of Record (or designee) may elect to transfer the patient to a physician who is willing to comply with the patient's preferences.

### **B. ADULT LACKING CAPACITY TO MAKE INFORMED DECISIONS**

#### **1. Advance Directive or POLST**

If the patient lacks capacity to make an informed decision, the Physician of Record (or designee) must rely on any valid written legal document which explicitly discusses the withholding or withdrawal of life-sustaining treatments, including an Advance Health Care Directive or POLST form.

When a patient's Advance Health Care Directive delegates healthcare decision making authority to an agent named on that Advance Health Care Directive, that agent has authority to make decisions to withhold or withdraw life-sustaining treatments. The Physician of Record (or designee) must discuss his or her recommendations with the agent regarding current, proposed, and alternative lifesustaining treatments, outlining the risks, benefits, and probable outcomes of receiving versus withholding or withdrawing such treatments. With the agent's assent, the Physician of Record (or designee) will withhold or order the withdrawal of lifesustaining treatments.

*Exception: See Section E below.*

When the agent requests that life-sustaining treatments be withheld or withdrawn, the Physician of Record (or designee) should make every effort to honor the agent's request. Discussion between the Physician of Record (or designee) and the agent should be pursued to determine that the request is consistent with the patient's expressed values (especially as outlined in the patient's Advance Health Care Directive or POLST form) and whether or not such treatments are beneficial in consideration of the patient's goals and factors such as:

- Relief of suffering;
- Preservation of life;
- Likelihood of restoration of function, and
- The quality and extent of sustained life.

The Physician of Record (or designee) must make every effort to honor the agent's request and shall document all relevant discussions and will withhold or order the withdrawal of life-sustaining treatments. The Physician of Record (or designee) may elect to transfer the patient to a physician who is willing to comply with the agent's request.

## 2. No Advance Directive or POLST

If the patient lacks capacity to make an informed decision and has no Advance Health Care Directive or POLST form which adequately addresses the withholding or withdrawal of life-sustaining treatment, the Physician of Record (or designee) must then discuss his or her recommendations regarding the withholding or withdrawal of life-sustaining treatment with the patient's Legal Representative or Surrogate. With the assent of the patient's Legal Representative or Surrogate, the Physician of Record (or designee) will withhold or order the withdrawal of life-sustaining treatments.

*Exception: See Section E below.*

When the Legal Representative or Surrogate requests that life-sustaining treatment be withheld or withdrawn, the Physician of Record (or designee) should make every effort to honor the Legal Representative or Surrogate's request. Discussion between the Physician of Record (or designee) and the patient's Legal Representative or Surrogate should be pursued to determine that the request is consistent with the patient's expressed values and whether or not such treatments are beneficial in consideration of the patient's goals and factors such as:

- Relief of suffering;
- Preservation of life;
- Likelihood of restoration of function, and
- The quality and extent of sustained life.

The Physician of Record (or designee) must make every effort to honor the Legal Representative or Surrogate's request and shall document all relevant discussions and will withhold or order the withdrawal of life-sustaining treatments. The Physician of Record (or designee) may elect to transfer the patient to a physician who is willing to comply with the Legal Representative or Surrogate's request.

### 3. No Advance Directive or POLST and No Legal Representative or Surrogate

If the patient lacks capacity to make an informed decision and has no Advance Directive or POLST form and has no Legal Representative or Surrogate, the Physician of Record (or designee) shall obtain a Clinical Ethics Consultation prior to withholding or ordering the withdrawal of life-sustaining treatments when the decision to withhold or withdraw life-sustaining treatment is non-emergent. When the decision to withhold or withdraw life-sustaining treatment is emergent, it is highly recommended that the Physician of Record (or designee) consult with another physician and/or obtain a Clinical Ethics Consultation prior to withholding or withdrawing life-sustaining treatment. Decisions to withhold or withdraw life-sustaining treatment will take into consideration the patient's personal values to the extent known and will utilize a burdens vs. benefits analysis of proposed or current treatments for determining the appropriateness of withholding or withdrawing such treatments.

### C. MINOR WITH CAPACITY TO MAKE INFORMED DECISIONS

Although minors (under the age of 18 years) are generally considered to lack the legal capacity to make medical decisions by virtue of their age, if they understand the nature and consequences of a decision to forego life-sustaining treatment, then, as a practical matter, they should be viewed as a competent minor, and the minor should be included in discussions about withholding or withdrawing life-sustaining treatment. When there is a request that life-sustaining treatment be withheld or withdrawn, discussion between the Physician of Record (or designee) and the competent minor and the minor's Legal Representative or Surrogate(s) should be pursued to determine whether or not such treatments are beneficial in consideration of the goals of care and factors such as:

- Relief of suffering;
- Preservation of life;
- Likelihood of restoration of function, and
- The quality and extent of sustained life.

*Exception: See Section E below.*

Life-sustaining treatment should not be withheld or withdrawn from a competent minor unless the minor and the minor's Legal Representative or Surrogate(s) agree(s) with the decision (unless otherwise exempted by legal consent requirements). The Physician of Record (or designee) must make every effort to honor the request and shall document all relevant discussions and withhold or order the withdrawal of life-sustaining treatments. The Physician of Record (or designee) may elect to transfer the patient to a physician who is willing to comply with the minor and the minor's Legal Representative or Surrogate(s)'s preferences.

### D. MINOR WITHOUT CAPACITY TO MAKE INFORMED DECISIONS

The Physician of Record (or designee) must discuss his or her recommendations regarding withholding or withdrawing life-sustaining treatment with the patient's Legal Representative or Surrogate(s).

1. In the case of infants, appropriate artificial nutrition, hydration, and medication may not be withheld or withdrawn.
2. Life-sustaining treatment may be withheld or withdrawn from an infant only when, in the judgment of the Physician of Record (or designee), any of the following circumstances apply:
  - a. Infant is chronically and irreversibly comatose;
  - b. The treatment would merely prolong dying, not effectively ameliorate or correct all of the infant's life threatening conditions, or otherwise be ineffective with respect to the infant's survival; or
  - c. The provision of treatment would be virtually ineffective in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

The Physician of Record (or designee) shall document all relevant discussions and with the assent of the patient's Legal Representative or Surrogate(s) will withhold or order the withdrawal of life-sustaining treatments.

3. In the case of non-infants, with the assent of the patient's Legal Representative or Surrogate(s), the Physician of Record (or designee) will withhold or order the withdrawal of life-sustaining treatments.

*Exception: See Section E below.*

When the Legal Representative or Surrogate requests that life-sustaining treatment be withheld or withdrawn, the Physician of Record (or designee) should make every effort to honor the Legal Representative or Surrogate's request. Discussion between the Physician of Record (or designee) and the patient's Legal Representative or Surrogate should be pursued to determine whether or not such treatments are beneficial in consideration of the goals of care and factors such as:

- Relief of suffering;
- Preservation of life;
- Likelihood of restoration of function, and
- The quality and extent of sustained life.

The Physician of Record (or designee) must make every effort to honor the Legal Representative or Surrogate's request and shall document all relevant discussions and will withhold or order the withdrawal of life-sustaining treatments. The Physician of Record (or designee) may elect to transfer the patient to a physician who is willing to comply with the Legal Representative or Surrogate's request.

#### **E. CONDITIONS IN WHICH LIFE-SUSTAINING TREATMENTS ARE CONSIDERED MEDICALLY INAPPROPRIATE**

1. In the following circumstances, medical interventions which are typically considered life-

sustaining treatments are generally deemed to be medically inappropriate because they either provide no direct benefit to a patient or cause more harm than actual or reasonably expected potential benefits:

- a. The patient's death is imminent as determined by the Physician of Record (or designee).
  - b. The patient has a condition in which medical interventions would, according to the judgment of the Physician of Record (or designee), only prolong the dying process that the Physician of Record (or designee) determines is already irreversibly underway.
  - c. Medical interventions are judged by the Physician of Record (or designee) to offer the patient no reasonable expectation of achieving the physiological effects for which they would be used, i.e., they are judged to be medically ineffective.
  - d. The patient has a medical condition for which the Physician of Record (or designee) does not expect medical interventions to achieve the patient's minimal acceptable outcome as expressed by the patient or as determined by the patient's Legal Representative or Surrogate in the patient's best interests (examples of minimal acceptable outcome would be restoring physical function of the organs, returning to a pre-morbid baseline, or achieving a certain activity of daily living or quality of life).
  - e. The patient has an irreversible, incurable or terminal condition in which the Physician of Record (or designee) determines that medical interventions would impose burdens greatly disproportionate to any expected patient benefit. For medical interventions satisfying any one of the above criteria, the Physician of Record (or designee) may withhold or order the withdrawal of such interventions.
2. In those circumstances in which there is uncertainty or disagreement regarding whether proposed or current medical interventions are of benefit, consideration should be given to:
- a. The patient's personal or religious values to the extent known;
  - b. The medical alternatives, burdens, risks and benefits of continued treatment
  - c. The relief of suffering
  - d. The possible preservation or restoration of function;
  - e. The patient's medical condition, diagnosis, and prognosis;
  - f. The impact of the decision on those people closest to the patient.
3. Documentation in the patient's Progress Notes must be written (see section F below). An order to withdraw such interventions must be written in the patient's medical record by the Physician of Record (or designee). Discussion with the patient or the patient's Legal Representative or Surrogate (if the patient lacks decision-making capacity) must also occur; however, if there is no objection, consent does not need to be affirmatively given since providing measures judged to be medically inappropriate is not standard of care.

4. In those circumstances in which a patient, or a patient's Legal Representative or Surrogate, insists on receiving or continuing medical interventions which the Physician of Record (or designee) has determined to be medically inappropriate, every effort should be made to resolve the disagreement, including requesting Clinical Ethics Consultation.

If the disagreement cannot be resolved, the Special Ethics Review Process as outlined in the "Medically Inappropriate Treatment in End-of-Life Health Care" policy will be initiated in order to determine whether or not the current or proposed medical intervention about which there is disagreement satisfies any one of the criteria listed above in Section IVE1a-e. Until a final resolution is determined, the Physician of Record (or designee) must:

- a. Continue to provide life-sustaining treatment until a resolution is determined;
- b. Keep the patient, or the patient's Legal Representative or Surrogate, adequately informed of the patient's medical condition;
- c. Make reasonable efforts to transfer the patient to another hospital that is willing to comply with the request of the patient, or that of the patient's Legal Representative or Surrogate.

#### F. DOCUMENTATION AND ORDERS

1. The decision to withhold or withdraw life-sustaining treatment must be supported by documentation in the medical record of all the circumstances surrounding the decision. Such documentation must include, but is not limited to:
  - a. A summary of the medical situation including medical status, diagnosis, and prognosis at the time a decision is made to withhold or order the withdrawal of lifesustaining treatment.
  - b. A documentation of any consulting physician's opinion, findings, and recommendations.
  - c. Documentation of relevant test results.
  - d. A statement of the patient's wishes to have life-sustaining treatments withheld or withdrawn if known.
  - e. A statement indicating the basis upon which a particular person or persons has/have been identified as an appropriate Legal Representative or Surrogate for the patient.
2. An order to withdraw life-sustaining treatment must be written and signed by the Physician of Record (or designee). Specific orders must be written for each treatment being stopped.
3. The Physician of Record (or designee) must communicate in a timely manner to the medical and nursing staff involved in the care of the patient that a decision to withhold and/or an order to withdraw life-sustaining treatments have been made and/or written to ensure that the decision and/or order is known and understood.

4. All decisions to withhold or withdraw life-sustaining treatment must be re-evaluated periodically as medically indicated. In addition, such decisions must be reviewed whenever a change in the patient's condition warrants a review. All reviews must be documented in the patient's medical record.
5. Orders for appropriate medications to achieve pain/symptom control should be in place. The Physician of Record (or designee) may request consultation from Palliative Care to assist with this.

#### **G. CONTACTING RISK MANAGEMENT**

Risk Management should be consulted before an order to withdraw life-sustaining treatment is issued whenever:

1. The patient's condition has resulted from an injury which appears to have been inflicted by a criminal act.
2. The patient's injury or condition has been created or aggravated by an adverse medical occurrence.
3. The patient is pregnant.
4. The patient is a parent with custody or responsibility for the care and support of children or dependent persons.
5. The patient, or the patient's Legal Representative or Surrogate, objects to the proposal to withhold or withdraw life-sustaining treatment.
6. The patient is a minor with capacity and there is a disagreement between the child and parents or guardians.

#### **H. ADDITIONAL SUPPORT FOR PATIENTS, FAMILIES, AND CARE PROVIDERS**

The Physician of Record (or designee) may request involvement of Case Managers, Chaplains, Clinical Ethics Consultants, members of the Palliative Care team, and/or Social Workers at any point during the process of decision making regarding the withholding or withdrawal of life-sustaining treatments in order to provide optimal support for patients, patients' Legal Representatives or Surrogates, patients' families, and other individuals directly involved in the care of, and decision making for, a specific patient, including consulting physicians, nurses, and other members of the patient's care team.

#### **V. RELATED POLICIES AND PROCEDURES**

- Clinical Ethics Consultation
- Medically Inappropriate Treatment in End-of-Life Health Care
- Health Care Decisions