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Ronald Reagan UCLA Medical Center

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Withdrawing or Withholding Medically Inappropriate Life-Sustaining Treatment, HS 1319

PURPOSE

The goal of UCLA Healthcare is to provide medically appropriate treatment for its patients in accordance with applicable ethical and legal principles. The purpose of this Policy is to provide a process for evaluating whether medical treatment is appropriate, and for withdrawing or withholding medically inappropriate (also called ineffective or futile) treatment.

POLICY

UCLA Healthcare supports the right of patients, or their health care decision makers, to participate in decisions about their treatment and to decline any and all medical treatment, including those necessary to sustain life. UCLA Healthcare also supports the principle that health care providers are not required to offer or continue to provide any medical treatment that is medically ineffective or contrary to generally accepted health care standards (referred to in this Policy as "medically inappropriate treatment") as described in California law:
California Probate Code § 4735:
"A health care provider or health care institution may decline 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 institution."

Before withholding or withdrawing medically inappropriate life-sustaining treatment, the health care providers should follow the procedures set forth below.

PROCEDURE

UCLA shall provide healthcare to its patients consistent with the following Principles.

I. **Principles**

A. Life-sustaining treatment (hereafter referred to in this policy as "treatment") refers to all medical interventions that have the potential to sustain life in situations where death otherwise is expected to occur. Life-sustaining treatments include cardiopulmonary resuscitation, mechanical ventilation, dialysis, antibiotics, artificial nutrition and hydration, anti-arrhythmics, blood pressure support medications, blood and blood products, and other medications and procedures that are capable of sustaining life.

B. Adults who possess decision making capacity have the right to participate in decisions about their own medical treatment. To ensure that patients and patients' Legal decision makers can make informed decisions, physicians should provide accurate and adequate information to their patients (or, if more appropriate, to Legal decision makers) about their disease, prognosis, and appropriate treatment options, including the efficacy of each treatment alternative and the associated risks and benefits.

C. Physicians should try to ascertain the patient's treatment goals and provide patients with a considered recommendation as to which medically appropriate treatment option(s) will best serve the patient's goals.

D. Physicians have a professional and ethical responsibility to offer patients only such treatment choices as are medically appropriate for the patient.

E. A medically appropriate treatment is a treatment: (1) that is reasonably expected to secure a proper goal of medicine, and (2) the potential benefits of which exceed the burdens or risks to the patient, and (3) the patient has or is expected to regain the ability to experience the benefit of the treatment.

F. In the context of treating a life-threatening condition, the following are among the proper goals of medicine: preventing unexpected, premature death; curing disease; maintaining or improving a quality of life that is meaningful to the patient; improving quality of life through relief of symptoms, pain or suffering; and providing for a peaceful death. Attempting to prevent death in any and all circumstances is not a proper goal of medicine.

G. Physicians, and other health care providers, are not required to provide medically inappropriate treatment, (see California Probate Code § 4735). Instead, they have a professional and ethical responsibility not to offer or provide treatments that are medically inappropriate. This means that some patients may not be offered treatment that they have indicated that they want. In the case of such conflicts, the procedures set forth below in Section V (Decision Making Process and Conflict Resolution) shall be followed.

H. A medically inappropriate treatment is one that: lacks a reasonable expectation of securing a proper goal of medicine; or where the burdens or risks of the treatment grossly exceed the expected benefits to the patient; or where the patient will be unable

to experience the benefit of treatment.

Specifically, a treatment is medically inappropriate if it:

1. holds no promise of achieving its intended physiologic effect, or
2. would serve only to prolong the patient's irreversible dying process, which process is actively underway, or
3. would serve only to maintain the life of a patient without the cognitive ability to indicate that they are experiencing an acceptable quality of life and the patient does not have a reasonable possibility of clinical improvement to live outside of an intensive care unit, or
4. would serve only to maintain the patient's life in a permanent unconscious state or other neurologically devastated state in which the patient is unable to experience the benefits of treatment, or
5. would otherwise impose burdens on the patient (including, but not limited to intractable pain, loss of personal dignity or other forms of suffering) grossly disproportionate to any expected benefit.

I. A treatment that has become medically inappropriate need not be continued. In this circumstance there is no ethical difference between withholding and withdrawing a treatment.

J. Nothing in this policy shall be understood to require a physician to provide an intervention that is intrinsically incapable of achieving the physiological effect desired by the patient (or Legal decision maker) or that is contraindicated because the treatment will cause death.

K. Once a decision has been made to withhold a life sustaining treatment judged to be medically inappropriate, the physician should also critically assess the rationale for continuing other life sustaining treatment.

L. In certain exceptional circumstances, such as to allow a family time to travel to reach the patient, medically inappropriate treatment may continue to be provided for a brief period of time before the treatment is withdrawn..

M. Physicians and other healthcare professionals who object to the withholding or continued provision of inappropriate treatment for reasons of conscience, should withdraw from the case so that others can assume care. In such circumstances, physicians must assure that the patient will not be abandoned and that care will be assumed by another physician willing to honor the patient's treatment preferences. When other health care professionals have objections of conscience, their preferences not to participate in a patient's care should be respected to the extent that care is not disrupted and the actions are consistent with their terms and conditions of employment. (Policy HS 7305 *Staff Request for Reassignment).*

N. Palliative care or comfort-oriented care is always appropriate. Refusal by a Legal decision maker to permit symptom assessment and management is unacceptable, except in the extraordinary circumstance that the patient made it unequivocally clear that palliation should not be provided in the clinical situation.

O. Medication shall not be used with the intent to cause or hasten the patient's death. Analgesia sufficient to eliminate pain and discomfort may be used even if it is reasonably expected that it may hasten the moment of death, as long as the health care professional's intention is to treat pain and the medication administered is proportionate to the patient's symptoms.(See Policy 1318).

P. Providing medical care requires the joint effort of patient, family and an entire health care team, which may include physicians, nurses, social workers, spiritual care personnel and others. Physicians should consult with and enlist the support of other appropriate members of the team throughout the treatment process, and especially when decisions to withhold or withdraw medically inappropriate treatment are being considered.

II. **Responsibilities of the Health Care Team**

Physician

A. The attending/primary physician should provide the patient, or Legal decision maker, with adequate information to make treatment decisions. In so doing, he/she should consult with and enlist the support of appropriate team members. Adequate information includes the need for treatment, various medically appropriate treatment alternatives (including the alternative not to receive treatment), risks and benefits of medically appropriate treatment options, and probable results of receiving no treatment.

B. Physicians should provide this information to the patient, even if family members request that it not be given, unless the patient indicates that he/she does not wish to receive information and wishes the family to be given information instead. (For therapeutic exception see UCLA HS Policy HS1346, *"Obtaining and Documenting Consent').*

C. The attending/primary physician, either alone or in conjunction with consulting physicians, shall recommend to the patient or Legal decision maker the course of medically appropriate treatment that best meets the patient's goals, and explain to the patient/Legal decision maker why the physician believes this is the best alternative.

D. If a physician concludes that any form of treatment is medically inappropriate, that treatment does not need to be offered, provided, or continued, in accordance with the policies and procedures as set forth in this policy.

E. If a physician has a long-standing, conscientious unwillingness to participate in either providing or not providing any form of standard medical treatment (one that a substantial proportion of physicians deem medically appropriate), the physician has a

moral obligation to inform patients soon after the doctor/patient relationship is established.

Registered Nurse

F. The registered nurse should identify and address difficulties in the end of life decision making process. The nurse should collaborate in ensuring that the patient/Legal decision maker is informed and comprehends the implications of decisions. The nurse should assist patients and families in understanding the limitations of treatments, the meaning of physiologic responses to therapies and palliative treatment options. S/he shall discuss with the attending physician any opinions, concerns, or communications from the patient, family, or treatment team regarding decisions to withdraw or withhold treatment.

G. The registered nurse shall promote and participate in interdisciplinary team and patient/family meetings regarding patient care management, and should be involved in decision making.

H. The registered nurse shall incorporate into the nursing plan of care any decisions to withhold or withdraw treatment.

Social Worker

I. The social worker will share relevant information about the patient and family with the physician and nursing staff and participate in interdisciplinary patient/family meetings.

J. The social worker will assist the patient and family to deal with the implications of the decisions that have been made.

K. If a patient lacks decision-making capacity, the social worker will attempt to identify family or friends who are able to participate in decision making for the patient.

Chaplain

L. The chaplain has two primary responsibilities. First, to engage the family and process emotional responses, promoting insight, understanding, collaboration, and spiritual resourcefulness.

M. Second, the chaplain aims to facilitate open, reflective conversation and communication between and among family members, physicians and staff.

III. **Patients with Decision-making Capacity**

A. The patient with decision-making capacity has the right to refuse any treatment (including life-sustaining treatment) even if the physician recommends the treatment. This decision should be an informed refusal to treatment and the physician should

document this process and the patient's choice. A capable and informed refusal of treatment must be respected.

B. If the patient requests treatment that the physician believes is medically inappropriate treatment, the procedures set forth below in Section V shall be followed. If, however, the patient is imminently dying, the physician can withhold medically inappropriate CPR, provided the provisions of policy 1319.1. III are met.

IV. **Patients Lacking Decision-making Capacity**

A. Adult Patients who Lack Decision-making Capacity and have a Legal decision maker

1. When treatment decisions are made for the adult patient who lacks decision-making capacity, physicians shall act toward the patient's Legal decision maker as they would to the patient him/herself. The order of priority for making health care decisions is set forth in Policy HS 1347 *(Consent - Who May Give an Informed Consent).*

2. If there is disagreement about who should be making health care decisions for the patient, the physician should consult Risk Management or obtain ethics consultation.

3. The Legal decision maker shall make decisions by the following priority of standards:

a. According to the patient's documented wishes, if there are applicable written instructions, including the advance directive or POLST (see Policy HS1317 *Advance directives*); or

b. According to the patient's verbal instructions; or

c. According to a reasonable interpretation of what a patient would have chosen, given the legal decision maker's knowledge of the patient's values and concerns (if the Legal decision maker can make a substituted judgment); or

d. According to a reasonable assessment of what appears to maximize the benefits or minimize the burdens to the patient (best interests standard).

4. If the physician and Legal decision maker disagree about the decision or the appropriate decision-making standard, the procedure set forth below in Section V shall be followed.

5. If the Legal decision maker named by the patient requests a course of action that is not consistent with the patient's previously expressed wishes or with the physician's assessment of the patient's best interests when the patient's wishes are not known, and attempts to resolve the differences in judgment are unsuccessful, the healthcare team should contact Risk Management or the UCLA Health System Ethics service or the hospital Ethics Committee. Replacement of

the Legal decision maker through legal action might be pursued. Conflicts should be handled as described in Section V below.

B. Adult Patients Who Lack Decision-making Capacity and Have No Identifiable Legal decision maker

1. When the patient has no family or friends in attendance or when the patient's identity cannot be determined, social services shall make a serious effort to identify family or friends or evidence of past healthcare decisions (see Policy HS 1317 *"Advance Directives").* Identified family or friends may be appropriate to and willing to act as the patient's Legal decision maker. If the patient has an advance directive or POLST with clear directions that apply to the patient's clinical circumstances, a Legal decision maker is not needed.

2. If no Legal decision maker can be identified or if the patient's identity cannot be determined, life-sustaining treatment decisions shall be made in the following manner:

   a. If the physician determines that life-sustaining treatments including CPR are medically inappropriate, the physician should obtain a review of the treatment plan from a member of the medical staff from an appropriate medical specialty. However, No CPR orders for imminently dying patients should be handled as per UCLA HS Policy 1319.1 (III). If the physician consultant agrees that withholding or withdrawing treatment is appropriate, then consultation shall be obtained from the Medical Center Ethics Committee. If the second opinion deems the life-sustaining treatment in question to be appropriate, then the consulting physician may continue or initiate such treatment or care for the patient may be transferred to the consulted physician or another physician to receive the treatment. An effort to identify an appropriate decision making mechanism for the patient shall be undertaken.

   b. The purpose of the Ethics Committee consult is to ensure that the decision is: (i) based on the best medical advice; (ii) consistent with the patient's best interests; and (iii) made without a material conflict of interest. The ethics review should also: (iv) confirm that a diligent search has been made for a surrogate decision maker, and that none is available; (v) obtain all relevant medical information regarding the patient and confirm that another physician has concurred with the plan; (vi) consider the views of the nursing staff and other healthcare providers; and (vii) consider the benefits and burdens to the patient.

   c. If the Ethics Committee agrees with the decision to withhold and/or withdraw life-sustaining treatment, the decision should be documented in the record, and the physician may withhold and/or withdraw the life-sustaining treatment. If the Ethics Committee disagrees with the decision, the physician should

continue or initiate life-sustaining treatment and should consider consulting with Risk Management.

C. Minors and Newborns

1. Parents or legal guardians are generally the responsible Legal decision maker regarding the withholding or withdrawal of treatment for a child under the age of 18, except for those minors who, under current law, may consent on their own behalf (e.g., self-sufficient minors, married minors, emancipated minors, minors in the armed forces).

2. Minors who have the capacity to participate in decision-making should be encouraged to participate in all treatment decisions. As with adult patients, capacity should be addressed with respect to the particular decision that needs to be made.

3. For legal guardians, the Letters of Guardianship should be placed in the medical record, and any limitations on the guardian's powers should be noted. Foster parents do not have the authority to withhold and/or withdraw life-sustaining treatment.

4. Additional consideration must be given to newborns or infants (less than one year of age). For these patients, federal law requires that life-sustaining treatment may only be withdrawn or withheld when:

   a. The infant is chronically and irreversibly comatose; or

   b. The provision of such treatment would: (i) merely prolong dying; (ii) not effectively ameliorate or correct all of the infant's life-threatening conditions; or (iii) otherwise be futile in terms of the survival of the infant; or

   c. The provision of such treatment would be virtually futile in terms of survival and the treatment itself under such circumstances would be inhumane (45 CFR § 1340.15.b (2) - *"Services and Treatment for Disabled Infants").*

Once the physician determines that one of the above criteria is met, he/she should consult with the parents or legal guardian regarding withdrawal or withholding of treatment. Federal law also prohibits the withdrawal or withholding of appropriate nutrition, hydration or medication (45 CFR § 1340.15.b (1)). If nutrition, hydration or medication are inappropriate for the infant's condition, the parents, in consultation with the treating physician, may decide to forgo such treatment (see Guidelines for Forgoing Life-Sustaining Treatment for Minor Patients, LACMA/LACBA 1996).

V. **Decision making Process and Conflict Resolution**

A. If members of the medical team believe that the treatment requested by the patient or Legal decision maker is medically inappropriate, then the following procedures shall apply:

1. If the physician determines that CPR is inappropriate and the patient's death is imminent, then the procedures in Policy HS 1319.1 should be followed.

2. Concerning other life-sustaining treatment or CPR in a patient not imminently dying that is determined by the attending physician to be inappropriate, a patient care conference shall be held with members of the healthcare team and the patient/Legal decision maker and appropriate family members or other patient representatives. At this meeting, the nature of the disagreement over the treatment should be explored and discussed in the context of the appropriate goals for the patient. The reason that the medical treatment is inappropriate should be explained. Health care providers are encouraged to involve Social Work and/or Spiritual Care.

3. If the patient/Legal decision maker and the healthcare team do not reach consensus, the physician shall offer a consultation with a member of the medical staff who is not otherwise involved in the patient's care.

B. If the conflict about appropriate use of life-sustaining treatment cannot be resolved through family meetings and additional clinical consultation, then the physician, or other healthcare providers involved in the care of the patient, should request a consultation from the Medical Center Ethics Committee and the following steps should be undertaken:

1. The conflict resolution process shall be engaged as soon as it has become apparent to the patient's physician that continued or escalated life-sustaining treatment is not medically appropriate. A request for Ethics Committee review shall be initiated as soon as it has become apparent that attempts to resolve the conflict by mutual agreement have failed or are likely to fail.

2. The purpose of the Ethics Committee consult is to ensure that (i) a thorough attempt at fully informed decision making has occurred, that the treatments proposed to be withheld or withdrawn reflect inappropriate treatment according to this policy, (iii) all steps delineated in this policy have been completed, (iv) the decision is based on the best medical advice and consistent with the patient's best interests, (v) the decision is made without a material conflict of interest, and that (vi) the decision considered the views of the nursing staff and other healthcare providers.

3. If the Ethics Committee and the physician consultant determine that the treatment does not meet the standard of being medically inappropriate, then the treatment should be initiated or continued, and the physician should transfer the patient to another physician or facility if the physician will not provide the care.

4. If the Ethics Committee and the physician consultant agree with the physician that the treatment is medically inappropriate, and the patient/Legal decision maker continues to want the treatment to be provided, then the following shall occur (Cal. Probate Code § 4736):

    a. Notify the patient/Legal decision maker of the Ethics Committee's decision and of the plan to withhold or withdraw the inappropriate treatment;

    b. Unless the patient/Legal decision maker refuses, the physician or other health care providers in conjunction with appropriate UCLA Healthcare staff, should make reasonable efforts to assist with a transfer to another provider or facility that is willing to provide the treatment;

    c. Continue to provide current life-sustaining treatment to the patient until the transfer can be accomplished or until it appears that transfer cannot be accomplished. The patient/Legal decision maker should be informed that additional treatments determined by the physician and the Ethics Committee to be medically inappropriate need not be initiated. In all cases, appropriate pain relief and palliative care should be provided.

    d. The patient/Legal decision maker shall be permitted reasonable time to seek court intervention before withdrawing the medically inappropriate life-sustaining treatment. The healthcare team should consult with Risk Management, Legal Affairs, and/or the Chief Medical Officer.

    e. Once it is determined that the patient cannot be transferred elsewhere to receive the disputed life-sustaining treatment (if an attempt at transfer was requested by the patient/Legal decision maker) and the reasonable time has elapsed, then inappropriate life-sustaining treatment may be withdrawn or withheld, even if this results in the death of the patient.

FORMS

None

REFERENCES

CHA. Consent Manual; Chapter 3, 2006
California Probate Code §§ 735-36
Code of Federal Regulations, 45 § 1340: Services and Treatment for Disabled Infants
LACMA/LACBA Policy: Guidelines for Physicians: Forgoing Life-Sustaining Treatment for Adult Patients

UCLA HS 1356	- Patient Deaths and Decedent Affairs

UCLA HS 1319.1	- No CPR Orders
UCLA HS 1319.2	- Terminal Weaning of Mechanical Ventilator
RR UCLA MC Policy 1318	- Pentobarbital Administration of Continuous Infusions to the Terminally III Patient
UCLA HS Policy 1317	- Advance Directives
UCLA HS Policy 1346	- Obtaining and Documenting Consent
UCLA HS Policy 1347	- Consent - Who May Give

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