

## Humility of Mary Health Partners Policy and Procedure

### Foregoing Life-Sustaining Interventions

RI-09

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Review Date:

#### **Policy Statement:**

Humility of Mary Health Partners (HMHP) provides quality health care services and emphasizes care and compassion for the whole person. Compassionate care includes appropriate guidelines for foregoing life-sustaining interventions. Patients and/or legitimate surrogates may forego life-sustaining interventions with or without Advance Directives. HMHP complies with requests for foregoing life-sustaining interventions that follow this policy and are consistent with the laws of the State of Ohio. Life-sustaining interventions are in those situations when there are no physician's orders to forego them.

#### **Procedure:**

The general and particular guidelines for appropriately foregoing life-sustaining interventions with and without Advance Directives include:

- A. Foregoing life-sustaining interventions mean withholding interventions not yet started and/or withdrawing interventions previously started.
- B. Foregoing a life-sustaining intervention is appropriate upon consideration of the stated, known, or inferred wishes of the patient. The attending physician and the capacitated patient, or the legitimate surrogate of the incapacitated patient, determine the appropriateness of foregoing life-sustaining interventions. If the physician or hospital are not willing or able to follow the directives of the patient if so stated or written, the patient has the right to be transferred to a physician or health care facility that is willing and able to comply (Revised Code 2133.10).
- C. Assessment of a patient's capacity or incapacity for decision making is the responsibility of the attending physician in consultation, as needed, with other physicians who have examined the patient.
- D. Types of interventions that may be foregone include, but are not limited to: placement in intensive care; cardio-pulmonary resuscitation; intubation and ventilation; any drug therapy regimen; dialysis; blood transfusions; intravenous fluids, enteral feedings, or hyperalimentation; radiation or chemotherapy; surgery.
- E. The attending physician seeks a consensual decision about foregoing life-sustaining interventions with the capacitated patient or the legitimate surrogate of the incapacitated patient and obtains informed consent. Other support systems such as nursing, pastoral care, social services, etc., are utilized as deemed necessary.

- F. Documentation by the attending physician in the progress notes includes relevant facts, consideration, communication, and consent. Specific orders are written to forego life-sustaining interventions as well as orders to keep the patient comfortable and as free from pain, anxiety, and disability as possible.
- G. Orders foregoing life-sustaining interventions may be rescinded as warranted by changes in the patient's condition or by request of the person who consented to them.
- H. In complicated cases, the Ethics Committee is consulted and can make recommendations as necessary.
- I. Orders for foregoing life support consider surrogate needs and patient comfort (such as possible sedation, pain management, or weaning of present treatment).
- J. Reassessment occurs based on changes in the patient's condition, diagnosis, and at periodic intervals.

Particular guidelines are necessary to retain compliance with Ohio's Modified Uniform Rights of the Terminally Ill Act (MURTLA). Particular guidelines are provided for two kinds of cases:

A. Advance Directive Present:

1. Terminal condition and incapacitated for decision making. The patient presents as follows:

- a. The attending physician present and one consulting, qualified physician diagnose the patient as being terminal and incapacitated for decision making and that there is no reasonable possibility that the declarant will regain the capacity to make those informed decisions (Revised Code 2133.05 [A]). The patient's absolute rights and wishes are observed as expressed in the provisions of the advance directive present (Revised Code 2133.10). An order will be written to activate the Advanced Directives.
- b. The attending physician reviews the Advance Directive. Advance Directives are to be signed, current and witnessed or notarized. A Living Will may or may not name a "Designee". A Durable Power of Attorney for Health Care names an "Attorney-in-Fact". This person need not be a lawyer. Questions regarding the validity of an Advanced Directive can be referred to Social Services or the Ethics Committee.
- c. The attending physician informs certain persons about his/her intention to comply with the patient's Advance Directive. If the Advance Directive is a Living Will, the physician informs the patient's designee (if any) or other persons. If the Advance Directive is a Durable Power of Attorney for Health Care, the physician informs the patient's attorney-in-fact or other persons. Other persons included (in this order):
  - 1) guardian (if any) or
  - 2) spouse or
  - 3) adult children or
  - 4) parents or
  - 5) adult siblings or
  - 6) nearest adult relative

The duty to inform is satisfied by communicating with the first reasonably available class.

d. The attending physician must wait 48 hours from the time of informing the designee, attorney-in-fact, and/or first reasonably available other persons for possible objections before complying with the Advance Directive. If other persons object, do not implement the Advance Directive and request an Ethics Consultation. If no notifiable persons object within 48 hours, then the attending physician:

- 1) Living Will - implements patient's expressed wishes
- 2) Durable Power of Attorney for Health Care - takes consent from the attorney-in-fact for foregoing medical care.

2. Permanent Unconscious State - Has written an Advance Directive Refusing Life-sustaining Interventions. The patient presents as follows:

Follow Section A of this policy's particular guidelines, **except** regarding artificial hydration and nutrition. Artificial hydration and nutrition may be foregone if the patient has checked and initialed a statement refusing them on the Advance Directive. If the patient has not checked and initiated this statement, the patient's surrogate must petition the Probate Court to forego life-sustaining interventions.

#### B. Surgical Patients Undergoing Anesthesia

1. A patient has the right to place advance directives that may limit the care he/she receives while hospitalized. Patients may have these limits in place when presenting for surgery. The patient does not have the right to demand surgery and simultaneously refuse procedures that are essential to standard medical practice and the success of the surgery.
2. Prior to any surgical procedures requiring anesthetic care, the anesthesiologist is notified by the nurse of an activated advance directive order. The anesthesiologist discusses the continuation or suspension of the order with the patient (or patient's surrogate if the patient is incapacitated). The anesthesiologist documents whether the order is to be continued during surgery or temporarily suspended. If the order is temporarily suspended, the suspension is in effect while the patient is being prepared for surgery, during surgery, and until the "post-recovery" period ends, at which time the advanced directive order is reinstated without the need of writing a new order. The "post-recovery" period is defined in the PACU's standard practice of care at HMHP.

#### C. Surgical Patients Undergoing Anesthesia - No Advance Directive

1. Terminal condition and incapacitated for decision making. The patient presents as follows:
  - a. The attending physician and one consulting, qualified physician diagnose the patient as being terminal and incapacitated for decision making and that there is no reasonable possibility that the declarant will regain the capacity to make those informed decisions (Revised Code 2133.05 [A]).
  - b. The attending physician discusses foregoing treatment with the following (in this order):
    - 1) the patient - or if incapacitated for decision making
    - 2) attorney-in-fact (durable power)
    - 3) guardian (if any)

- 4) spouse
- 5) adult children reasonably available
- 6) parents
- 7) adult siblings (majority siblings reasonably available)
- 8) nearest adult relative

The duty to inform is satisfied by communicating with the first reasonably available class.

- c. The attending physician provides information about the patient's condition to the first reasonably available persons and obtains written, witnessed informed consent for foregoing medical care consistent with the patient's known or inferred wishes, Ohio law, and HMHP policies. The physician may use specific consent form developed for Foregoing Life-Sustaining Treatment. Documentation of the communication between the attending physician and patient/significant other is reflected in the progress notes.
  - d. The attending physician waits 48 hours from the time of the consent for possible objections before implementing the consent. If other surrogates object, do not implement the consent and request an Ethics Consultation. If no notifiable persons object within 48 hours of the consent then the attending physician can implement.
2. Permanent Unconscious State - The patient presents as follows:
- a. The attending physician and one consulting, qualified physician diagnose the patient as being incapacitated for decision making and in a permanent unconscious state. The diagnosis of permanent unconscious state is reflected in the progress notes, a condition existing for the previous 12 months.
  - b. The attending physician discusses treatment or foregoing treatment with the following (in this order):
    - 1) the patient - or if incapacitated for decision making
    - 2) attorney-in-fact (durable power)
    - 3) guardian (if any)
    - 4) spouse
    - 5) adult children reasonably available
    - 6) parents
    - 7) adult siblings (majority siblings reasonably available)
    - 8) nearest adult relative

The duty to inform is satisfied by communicating with the first reasonably available class.

- c. The attending physician provides information about the patient's condition to the first reasonably available persons and obtains written, witnessed informed consent for foregoing medical care consistent with the patient's known or inferred wishes, Ohio law, and HMHP policies. The physician may use the specific consent form developed for foregoing life-sustaining treatment.

- d. The attending physician is to wait 48 hours from the time of the consent for possible objections before implementing the consent. If other surrogate object, do not implement the consent, and request an ethics consultation. If no notifiable persons object within 48 hours of the consent, then the attending physician can implement.
  - e. Artificial hydration and nutrition may be foregone only after the patient has been in a permanently unconscious state for the preceding 12 months and the Probate Court has issued an order to withdraw or withhold.
3. Conflicts about Foregoing Life-Sustaining Interventions are addressed as follows:
- a. Conflict between the capacitated patient and family members are settled according to the patient's wishes.
  - b. When the capacitated patient requests forgoing life-sustaining interventions and the physicians disagrees, the attending discusses with the patient and either complies, seeks a legal guardian, or consults to transfer the case.
  - c. When the legitimate surrogate to the incapacitated patient request to forego life-sustaining interventions and the attending physician disagrees, the attending discusses the matter with the surrogate and either complies, seek or disputes guardianship, or consults to transfer the case.
  - d. When the legitimate surrogate contests the previously expressed, known wishes of the incapacitated patient, the attending physician discusses the matter with the surrogate on behalf of the wishes or interests of the patient and may seek or dispute guardianship if necessary.
  - e. When surrogates of the incapacitated patient dispute about foregoing life-sustaining interventions, the physician discusses the issues with them about reaching consensus and delegating a decision maker to give informed consent and advises them to seek guardianship if they cannot come to agreement.

4. Staff request not to participate in an aspect of Patient Care

When a staff member involved in patient care identifies a situation that he/she perceives to be in conflict with his/her cultural values or religious beliefs, the staff member has the right to request not to participate in delivering that aspect of care. The granting of this request may not negatively affect the patient's care and treatment, and provision will be made for alternative methods of care delivery should such a situation arise.

**RECOMMENDERS:**

**APPROVED BY:**

**REFERENCES**

CAMH RI.1

CAMHC RI .1

Ohio Revised Code 2133

Ohio's Modified Uniform Rights of Terminally Ill Act (MURTIA)