

SUBJECT: Advance Directives (Living Will, Durable Power of Attorney for Healthcare and DNR-Comfort Care)

PURPOSE: To provide guidelines in determining and honoring the patient's decisions for medical treatment.

POLICY:

1. Under Ohio and Federal law, adult patients have the right to make decisions concerning medical care including the right to accept or refuse medical or surgical treatment. This right includes the option of executing Advance Directives, indicating what procedures or treatments will be provided, withdrawn, or withheld towards the end of life, and/or designating another person to make decisions in the event the patient lacks decision-making capacity at any time. The Jewish Hospital also recognizes that a patient's verbal wishes for end of life care may be documented in the medical record, and will be honored.
2. The provisions of care to any patient will not be conditioned on the presence or absence of an Advance Directive. The absence of an Advance Directive will not be taken as an indication of a patient's intention to consent to or refuse life-prolonging procedures.
3. It is the patient's or family's responsibility to bring copies of the patient's Advance Directives to the hospital and give the patient's Living Will, Durable Power of Attorney for Health Care, DNR-Comfort Care forms or wallet card, or other written directives either to the Registrar, or to a member of the health care team. An Advance Directive executed in another state is valid in Ohio, to the extent it is consistent with Ohio law.
4. Patients or their surrogates need to be fully informed of their condition and prognosis in order to participate in care decisions and to make appropriate choices according to their own values and goals.
5. Patients with a valid Living Will will be resuscitated unless there is a written DNR-CC order or Limitation of Treatment order in the medical record.
6. The attending physician, having been informed of the existence of an Advance Directive by the patient, a family member, or other members of the health care team, will be responsible for incorporating the Advance Directive into the patient's medical plan of care when appropriate.
7. A patient's wishes will be followed unless treatment is requested that is unethical, of no benefit, or harmful to the patient. If this occurs, the physician will limit or discontinue the treatment according Policy PS-38 Non-Beneficial Medical Care.
8. When a patient/family want to honor a Living Will, they must first discuss this with the physician. If the physician does not agree, a second opinion will be obtained at patient/family request. An attending physician unwilling to comply with an Advance Directive, or with the decision of a person designated by a patient to make decisions, must make a reasonable effort to transfer the patient to the care of another physician.

9. If the patient lacks decision-making capacity and is in a permanently unconscious state and/or terminal condition, and the patient has a valid Living Will, treatment will be given in accordance with the terms of the Living Will.
10. Prior to carrying out the specifications of the Living Will, the medical record must:
- A. Reflect that there is a determination and documentation by the patient's attending and another physician who has examined the patient that the patient is in a terminal condition and/or permanently unconscious state as defined in this policy,
 - B. Contain documentation that the patient lacks decision-making capacity and that there is no reasonable expectation that the patient will regain that capacity,
 - C. Contain documentation of the terms of the Living Will or contain a copy thereof, and
 - D. Reflect determination regarding the continuation, withholding or withdrawal of life-sustaining treatment.

If the patient is pregnant, life-sustaining treatment will not be withheld or withdrawn unless two physicians examine the patient and determine to a reasonable degree of medical certainty that the fetus would not be born alive.

11. The physician will make a good-faith effort to notify one of the following re: the decision to carry out provisions of the Living Will in order of priority:
- A. Individuals designated for notification in the Living Will
 - B. Court-appointed guardian, if any
 - C. Spouse
 - D. Adult children who may be reasonably available
 - E. Parents
 - F. Adult sibling who may be reasonably available
 - G. Any other adult who may be next related to the patient by blood, marriage or adoption.

If no family can be notified after 48 hours, the physician can then write the order(s) that follow the terms of the Living Will.

12. If no Living Will exists, end of life decisions may be made by a surrogate. If the patient has a Durable Power of Attorney for Healthcare, the surrogate will be the person named in that document. If no Durable Power of Attorney for Healthcare or Living Will exists, the surrogate will be in order of priority:
- A. Court-appointed guardian
 - B. Spouse
 - C. Majority of adult children who may reasonably be available
 - D. Parents
 - E. Majority of patient's adult siblings who are reasonably available
 - F. Any other adult who may next be related to the patient by blood, marriage, or adoption.
13. If the patient has no relatives as set forth above, or if no relative is willing to become involved to decide, life-sustaining treatment may only be withdrawn or withheld if, in the opinion of the responsible physician, it would violate reasonable standards of medical care to continue the treatment to the patient. The basis for this opinion must be documented in the medical record.

14. Conflicts among physicians, hospital staff, the patient, and family concerning the Advance Directives, or the validity of prior verbal statements by the patient may be referred to the Ethics Committee for consultation by calling the Medical Staff Office or by paging the Clinical Supervisor on duty evenings, nights, and weekends.
15. Advance Directives will be honored in outpatient departments in the same manner as inpatient departments unless otherwise specified by the individual department.

PROCEDURE:

1. For inpatient registration (including registration of Emergency Department patients who may be admitted):
 - A. The patient or family will be asked if the patient has completed Advance Directives or if he/she would like additional information about Advance Directives. The Advance Directive Flowsheet (attachment) will be used to document this information.
 - B. If the patient states that he/she has not completed Advance Directives, he/she will be advised of the right to execute Advance Directives and asked if further information is desired.
 - C. If a patient indicates that they do have Advance Directives, Admitting and Registration staff will ask, and document on the Advance Directive Flowsheet, whether or not the wishes are current. If the patient has their Advance Directives with them, the Registrar will place them with the medical record.
 - D. If the patient is not able to complete the Advance Directive information or if he/she has additional questions about Advance Directives, the Registrar will check the Social Work referral box at the bottom of the Flowsheet.
 - E. If copies of a patient's existing Advance Directives are not available during registration, the Registrar will direct the Advance Directive reminder letter (attachment) to:
 - 1) the family if they are present
 - 2) the patient if the family is not present and the patient will be able to pass the letter on to his/her family when they visit
 - 3) the medical record if the family is not available and the patient is not able.
2. For outpatient registration:
 - A. Further information about Advance Directives and hospital policy will be available upon request.
 - B. If a patient presents a DNR-Comfort Care order signed by a physician, the order will be passed on to the physician caring for the patient for inclusion in the outpatient plan of care.
 - C. Certain outpatient areas may not honor Advance Directives. This information will be stated in the department policy manual and patients will be informed of this prior to arrival for the procedure.
 - D. If an outpatient requires admission, Admitting and Registration will send the Advance Directive Flowsheet to the Nursing Unit for completion and follow up.

3. The admitting nurse will check the Advance Directive Flowsheet (found under the Advance Directive tab in the medical record) to make sure that the Advance Directive information is complete. If the patient has Advance Directives and they are not on the chart, the admitting nurse will ask the patient if they would like to complete new Advance Directives for the chart.
4. If the patient does not want to complete new Advance Directives, the admitting nurse will ask the patient if they would like to document the content of their Advance Directives in the medical record using the space on the Advance Directive Flowsheet. If the patient does not want to document the content, the nurse will write "Refused" on the Flowsheet. If the patient does want to document their Advance Directives, the patient must sign and two staff members must witness. If copies of the Advance Directives are brought in and placed in the medical record they supercede these documented wishes.
5. If the patient has questions or Advance Directive information can't be completed, the admitting nurse will make a referral to Social Work via the High Risk Screen form or by computer order.
6. A member of the interdisciplinary team will give the Advance Directive reminder letter to the patient's family at the next available opportunity.
7. The interdisciplinary team will review Advance Directive status and will follow up as indicated.
8. If a patient has submitted Advance Directives during a previous admission and they indicate that these directives are their current wishes, the nurse or Health Unit Coordinator can request the old chart from medical records, copy the Advance Directives, and place the copy on the current medical record.
9. Copies of Advance Directives will be placed in the patient's medical record and become a permanent part of the patient record. The original is returned to the patient or surrogate.
10. Communication among the patient, family, and hospital staff concerning Advance Directives should be documented in the medical record.
11. Advance Directives remain in effect until revoked verbally, in writing, or by alternate non-verbal communication method by the patient. Revocation shall be made part of the medical record.
12. If a patient wishes to alter the Advance Directives, a new Advance Directive should be executed and the old one voided and dated. Both will remain in the medical record.
13. Comfort care measures will always be maintained.
14. Counseling, clarification of Advance Directive information, as well as forms and pamphlets will be available from the Social Work Department during normal business hours, or by paging the Social Worker on-call (577-0704) at other times. Advance Directive forms and pamphlets will also be available 24 hours a day in Admitting and Registration.
15. A facsimile copy of any Advance Directive will be considered acceptable.

16. Any patient at least 18 years of age or an emancipated minor may complete Advance Directives.

17. Advance Directive pamphlets and forms will be available in Russian and Spanish, on the Health Alliance intranet, from Admitting and Registration, and the Social Work Department. When copies of foreign language Advance Directives are placed in the chart, English language copies will also be placed in the medical record.

DEFINITIONS:

Advance Directive: A written document or an oral statement, made in accordance with the Ohio's Advance Directives law, witnessed by two persons or notarized, stating the patient's preferences for medical treatment or non-treatment should he/she lose decision-making capacity. Advance Directives may include:

- a) Living Will,
- b) Durable Power of Attorney for Health Care designating a person to make medical decisions for the patient,
- c) Do Not Resuscitate (DNR's) orders, or
- d) Documents expressing the patients individual preferences as specified in the Patient Self-Determination Act.

Attending physician: The physician who has primary responsibility for the treatment and care of the patient.

Incapacitated: Inability of an adult to make informed medical decisions that reflect an understanding of the nature, extent, or probable consequences of the proposed decision, or to make a rational evaluation of the risks and benefits of alternatives. Such incapacity will be diagnosed and certified in writing by the attending physician and a second physician or certified psychologist who has examined the patient.

Life-sustaining treatment: Any medical procedure, treatment, intervention, or other measure that serves principally to prolong the process of dying.

Permanently unconscious state:

- a) the patient is irreversibly unaware of himself and his environment; and
- b) there is a total loss of cerebral cortical functioning, resulting in the patient having no capacity to experience pain and suffering.

Both of the above must be determined to a reasonable degree of medical certainty by the patient's attending physician and one other physician who has examined the patient.

Terminal condition: An irreversible, incurable, and untreatable condition caused by injury, disease, or illness from which, to a reasonable degree of medical certainty as determined by the patient's attending physician and one other physician who has examined the patient:

- a) there can be no recovery, and

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- b) death is likely to occur within a relatively short time if life sustaining treatment is not administered.

Witness: An adult who observes the making of a declaration, or the signing of a written directive.

They cannot be:

- a) a spouse,
- b) a relative of the patient by blood, marriage, or adoption,
- c) the person who is designated as the attorney-in-fact,
- d) the attending physician, or
- e) the administrator of the nursing home in which the patient resides.

The Jewish Hospital staff members may volunteer, but are not required to serve as witnesses.

OTHER POLICY REFERENCES: Patient Services Evendale Policy EV 81 Advance Directives, GO-4 Ethics, PS-6 Consent to Treat/Informed Consent, PS-9 End of Life Care, PS-14 DNR Comfort Care, PS-21 Patient Rights and Responsibilities, PS-31 Limitation of Treatment, PS-38 Non-Beneficial Medical Care

ATTACHMENTS: Copies of Advance Directive brochure "You Have The Right", Copies of Advance Directives, Advance Directive Flowsheet, Advance Directive Reminder Letter

Approved by: _____

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