OVERLAKE MEDICAL CENTER

Procedure

# Withholding or Withdrawing Life-Sustaining Treatment

Risk Management 17895 (Rev: 4)**Official**

## PURPOSE

- To outline guidelines and nursing responsibilities for withholding or withdrawing life-sustaining treatment from a patient mentally incapable of making his/her own health care decisions.
- This policy does not apply to patients who are capable of making their own health care decisions.
- This policy is to ensure that patients incapable of making his/her own health care decisions are afforded the same ethical and legal rights as patients who possess that capacity.

## PATIENT CRITERIA

For patients who are not mentally capable of making health care decisions, the following conditions must be met:

1. It must be determined that the patient is incapable of making his/her own health care decisions.
    - **Key Point → If a patient's decision-making ability is fluctuating or uncertain, the guidelines for the incapacitated patient should be followed until the patient returns to a stable, competent state. There should be a distinction made between whether the patient is demonstrating fluctuation in his/her ability to make competent decisions, or whether the patient is competent but indecisive or ambivalent regarding the decision to withdraw / withhold life support. If it is the latter, treatment should not be withheld or withdrawn until the patient reaches a firm decision.**

2. It must be determined that the patient has either:
    a. A terminal condition, defined as an irreversible and incurable condition caused by injury, disease or illness, that would cause death within a reasonable period of time, in accordance with accepted medical standards, and where application of life-sustaining treatment serves only to prolong the process of dying.
    b. A permanent unconscious condition is defined as incurable and irreversible, in which the patient is medically assessed within reasonable medical judgment as having no reasonable probability of recovery from an irreversible coma or a persistent vegetative state. (Unconsciousness of an undeterminable duration is sufficient, even though the condition may not appear to be "terminal" within a period of time foreseeable by medical standards.)

## SPECIAL CRITERIA FOR NEONATE

A physician may consider withholding / withdrawing life support from a neonate only if appropriate nutrition and hydration will be provided.

## DECISION MAKING STEPS

1. For a patient with a terminal condition, prior to life-sustaining treatment being withheld or withdrawn, the attending physician must personally examine the patient and document the diagnosis in the chart.
2. Prior to life-sustaining treatment being withheld or withdrawn, the attending physician and one other physician must personally examine the patient and both must document the diagnosis of a permanent unconscious state in the chart in accordance with medical standards.
    - **Key Point → The use of two physicians has been stipulated by the amendments to the Washington Natural Death Act.**

3. The health care team members should identify if the patient has executed a Health Care Directive (Living Will) or any other form of Advance Directive (Durable Power of Attorney for Health Care Decisions) that

would serve as evidence of the patient's wishes. If there is no such documentation, previous communication concerning the patient's wishes (i.e., communication between the patient and clergy), the family and/or friends may be utilized as evidence of the patient's wishes. A patient's written Value Statement, Statement of Beliefs, or comparable document, while not the same as an Advance Directive or Health Care Directive, may be utilized as evidence of the patient's wishes.

- **Key Point → If the criteria for termination of life-sustaining treatment is met with a patient who has a Health Care Directive (Living Will), then the patient's Directive must be followed and implemented. Even if a family member expresses a contrary wish, it is the patient's consent and instruction in the Directive that controls the decision.**

4. When the conditions noted under Nos. 1, 2 or 3 have been met, the attending physician and the nurse caring for the patient should meet with the immediate family, including the person(s) legally authorized to provide consent. The discussion should include:
   a. A full explanation of the patient's condition, prognosis, and expected level of function.
   b. A thorough discussion of the life-sustaining treatment that can be withheld or withdrawn.
   c. A description of the effect of withdrawing treatment.
   d. Discussion of the effects of continuing treatment.
   e. Discussion of palliative treatment that can be provided.

5. The physician should advise the immediate family and the person(s) authorized to provide consent for withholding or withdrawal that consent may be given only after determining in good faith that:
   a. The patient would refuse life-sustaining treatment if he/she were capable of making their own health care decisions. It is the duty of the authorized person to try to follow the patient's wishes.
   b. If such a decision cannot be reached, the person(s) legally authorized to give consent must determine if withholding or withdrawing life-sustaining treatment is in the best interest of the patient.

6. In order of priority, the following individuals are empowered by law to give consent for a patient in a terminal or permanent unconscious condition:
   - 1st: Court-appointed legal guardian
   - 2nd: Individual to whom the patient has given Durable Power of Attorney for Health Care Decisions
   - 3rd: Patient's spouse or state registered domestic partner
   - 4th: Adult children of the patient who are at least 18 years of age
   - 5th: Parents of the patient
   - 6th: Patient's adult brothers / sisters
     - **Key Point → Consent must be obtained from the highest priority level available within reasonable efforts. The decision of the priority group must be unanimous. If consent is denied at a higher level, it cannot be sought from a lower level.**
     - **Key Point → If the patient has no family or person legally authorized to provide consent, a guardian must be appointed before decisions can be made.**

7. If family members from a lower priority level request involvement, the attending physician and nurse caring for the patient should involve them in discussions about prognosis or encourage them to talk with the person(s) legally authorized to consent for the patient.
8. If the person(s) legally authorized to give consent and the attending physician (and consulting physician when appropriate) all agree that treatment should be withheld or withdrawn, their decision should be implemented. If there is no agreement, treatment will continue unchanged.

     - **Key Point → If family members from a lower priority level disagree with the unanimous agreement of the individuals in #7, implementation of the decision may be postponed to allow the family members to reach agreement or to petition the court.**

## ETHICAL CONFLICTS STEPS

1. Physicians' and Employees' Rights: Any physician / employee may decline to participate in withholding or withdrawal of therapy. To exercise this right, the physician / employee must take appropriate steps to

transfer the care of the patient to another physician / employee prior to withdrawing from the case.

2. Ethics Committee Consultation: The attending physician, any member of the health care team, the person (s) legally authorized to give consent, or any family member, may seek a consultation with the Ethics Committee at any time. Reasons for consultation include, but are not limited to, conflicts between family members, staff-staff conflicts, and unclear moral issues. The goals of the Ethics Committee consultation include:
    a. Correcting misunderstandings
    b. Helping in the acquisition of needed information
    c. Allowing ventilation of emotions
    d. Aiding in dispute resolution

## IMPLEMENTATION

***Key Point → Organ / Tissue Donation Agencies should be contacted regarding anticipated death to begin the organ donation referral process (1-888-543-3287). LifeCenter must be notified of all deaths. RN documents the referral call.***

1. The attending physician should document in the patient's record:
    - A Progress Note summarizing the conversations regarding prognosis.
    - Specific treatment that is to be withheld or withdrawn.
    - The note should indicate that consent was obtained and who gave consent.
    - An order specifying the exact details of the plan to withhold or withdraw must be written.
    - Orders to initiate comfort care measures (i.e., morphine drip) prior to withdrawal, if indicated.

2. Verbal physician orders and telephone orders for discontinuation of life support **will not** be accepted unless there is clear documentation of conversation with family and consent by family member in physician's Progress Notes. Two RNs **must** witness a telephone order.
3. Chaplain consult for pastoral care for patient and family should be available as appropriate.
4. If the patient and/or family requests tissue and/or organ donation, refer to *Organ and Tissue Donation* policy.
5. If a ventilator is to be discontinued, the respiratory therapist can extubate the patient and remove the ventilator. All other items can be removed by the nurse.
6. The family's observance of any special cultural, religious, or personal rituals or wishes concerning their loved one should be assessed and considered, if possible.

**Reference - WA State Natural Death Act (RCW 70.122)**