WEISMAN CHILDREN'S REHABILITATION HOSPITAL (WCRH)
ADMINISTRATIVE MANUAL

SUBJECT: ADVANCE DIRECTIVES **NO: AM 9.5**

EFFECTIVE DATE: 12/2/97 **PAGE 1 OF 6**

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Regulatory NJAC 8:43H–5.4
PURPOSE:

To honor patient autonomy in health care decisions.

POLICY:

It is the policy of this hospital to comply with state and federal laws regarding a patient's right to participate in health care decisions affecting the patient.

It is understood that the wishes of the patient and the patient's family are of primary concern. Care and treatment of patients hospitalized in WCRH will be under the direction of the patient's attending physician. Treatment decisions regarding all competent patients will be made under the auspices of the patient-physician relationship.

WCRH will not condition the provision of care or discriminate against any individual based on whether or not the individual has executed an advance directive.

THE HOSPITAL WILL:

1. Provide to each adult patient (18 years or older), at the time of admission, written information regarding state law on accepting and refusing medical and surgical treatment and on the right to formulate advance directives. When available the information regarding the patient's right to make medical decisions will be provided in the language of the patient.

2. Assure that the patient's medical record documents whether or not the patient has executed an advance directive.

3. Provide education for staff and physicians on issues concerning advance directives. Consider any patient who does not possess an advance directive to be at full code status unless otherwise ordered as DNR by the attending physician.

4. In ambulatory settings, any patient with a medical emergency shall receive emergency treatment including Basic Life Support from a trained individual and the

emergency response system 911 will be activated. The Director of Outpatient Services or designee shall be responsible for communicating this policy to individuals who inquire about our policy. Any dispute regarding this policy and the honoring of an individual's advance directive will be directed to the Weisman Children's Rehabilitation Hospital Ethics Committee. If an outpatient requests assistance with formulating an advance directive, the Director of Social Work or representative shall provide the requested services.

PROCEDURE:

1. Provisions of *valid advance directives will be followed. A physician, or other health care professional, for personal convictions, may decline to carry out requested foregoing or maintaining life-sustaining treatments, but must, in such cases, cooperate with appropriate and timely transfer of the patients care.

**In order to be valid, an advance directive must be signed and dated by, or at the direction of, the declarant in the presence of two adult witnesses, who shall attest that the declarant is of sound mind and free of duress and undue influence. Alternatively, it can be signed and dated by the declarant and acknowledged before a notary public or attorney at law. Neither designated health care representative, attending physician, nor staff caring for the patient shall act as a witness. The content of a valid advance directive must comply with the requirements of the New Jersey Advance Directives Act.*

Advance directives become effective only when the patient has lost decision-making capacity (see Section 4A) and when the document has been given to the health care institution.

2. **PROVISION OF INFORMATION:**

   a. All adult inpatients (or surrogate decision-makers), at the time of admission, or as soon thereafter as possible, will be provided with written information concerning advance directives.

   b. Upon request, a copy of this policy and procedure will be made available to any patient or surrogate decision-maker.

3. **INQUIRY AND DOCUMENTATION REGARDING ADVANCE DIRECTIVES:**

   a. Inquiry:

      (1) Admission Office personnel will make inquiry regarding the existence

of an advance directive at the time of admission.

(2) The Social Worker will follow-up on all patients through the assessment process.

(3) The Social Worker, assisted by members of the Interdisciplinary Ethics Team, will provide additional information to patients who request it.

(4) If the patient has no advance directive and does not desire one or any further information, the matter should not be pursued.

(5) If the patient has an Advance Directive, but is not able to provide a copy for the medical record, the Social Worker will offer assistance to the patient to complete a new verbal or written Advance Directive. The original written document (or a copy of the verbal documentation) will be given to the patient or the patient's representative. The copy will be placed in the medical record and remain as part of the record.

(6) If the patient has no Advance Directive, but wishes to execute one, the Social Worker will offer assistance to complete a verbal or written Advance Directive. The original written document (or a copy of the verbal documentation) will be given to the patient or the patient's representative. The copy will be placed in the medical record and remain as part of the record.

b. Documentation:

(1) Information regarding the existence of an advance directive (yes, no, unknown) will be recorded by Admission Office personnel at the time of admission.

(2) If the patient has an advance directive, a copy will be requested and placed in the medical record when obtained.

4. **ATTENDING PHYSICIAN RESPONSIBILITIES:**

a. Inquiry

(1) Inquire of the patient, family, or others as appropriate, concerning the existence of an advance directive.

(2) Document in the medical record whether an advance directive exists and the name of the patient's health care representative, if any.

b. Determination of decision-making capacity

(1) The attending physician must determine whether the patient lacks capacity to make health care decisions.

(2) One or more physicians shall confirm the attending physician's

determination in writing unless the patient's loss of decision-making capacity is clearly apparent and the health care representative concurs.

(3) When the lack of decision-making capacity is related to a mental or psychological impairment or a developmental disability and the attending physician lacks specialized training or experience, the lack of decision-making capacity shall be confirmed by one or more physicians with appropriate specialized training or experience.

(4) A physician designated by the patients advance directive as a health care representative shall not make or confirm the determination of a lack of decision-making capacity.

(5) The attending physician shall inform the patient (if the patient has any ability to comprehend) and the health care representative that the determination of loss of decision-making capacity has been made.

(6) Document in the medical record the nature, cause, extent and probable duration of the patient's incapacity. Also document notification of patient and/or health care representative regarding loss of decision-making capacity.

(7) The attending physician, the health care representative and, when appropriate, any additional physician responsible for the patients care shall discuss the nature and prognosis of the patients medical condition, the risks, benefits, and burdens of the proposed treatment options and the alternatives. Such decisions shall be documented in the physician's progress notes.

(8) Follow the wishes of the patient as understood in the valid advance directive and/or as authorized by the health care representative.

(9) When an advance directive exists, but cannot be located, decisions concerning care should be made by the attending physician in consultation with the decision-maker using substituted judgment or best interest criteria as appropriate.

5. **NURSE RESPONSIBILITIES:**

a. At the time of admission assessment determine whether or not the patient has an advance directive.

b. If the patient has an advance directive, offer opportunity for discussion/verbalization and encourage the patient and family to discuss the issue with the attending physician. If not already done, request that a copy of advance directive be brought to the hospital for placement on the chart.

c. If the patient has an Advance Directive, but a copy is not available for

inclusion in the medical record, coordinate with the Case Manager or Social Worker to offer assistance in executing a new written or verbal Advance Directive.

d. Refer any patient who expresses concerns or questions about advance directives, or patient rights regarding treatment options, to the Director of Case Management, Social Worker, or to the physician as appropriate.

e. Documentation:
   1. Document in nursing progress notes any patient/family discussions regarding treatment options and any referrals made.
   2. Place advance directive on chart when received.

6. DISPUTED RESOLUTION:

In the event of a disagreement among the patient, health care representative and/or attending physician concerning the patient's decision-making capacity or the appropriate interpretation and application of the terms of an advance directive to the patient's course of treatment, the parties may:

a. Convene the Interdisciplinary Ethics Team

   1. Any person may request a consult to the WCRH Ethics Committee.

   2. The team will provide a forum for discussion of issues between all parties. The team will serve in an advisory, consultative and an educational capacity to all parties.

b. Seek resolution by a court of competent jurisdiction.

7. DEFINITIONS:

Advance Directive: A written instruction, such as a living will or durable power of attorney for health care, recognized under state law and relating to the provision of care when the individual is incapacitated.

Adult: for purposes of this policy adult is defined as any competent individual who has achieved the age of 18 years or is emancipated.

Declarant: A competent adult who executes an advance directive.

Decision-Making Capacity: A patient's ability to understand and appreciate the nature and consequences of health care decisions, including the benefits and risks

of each, and alternatives to any proposed health care, and to reach an informed decision.

Health Care Representative: The individual designated to make health care decisions on the declarant's behalf in accordance with the terms and order of priority stated in an instruction directive and/or with the patients previously expressed wishes.

Life-sustaining Treatment: Any treatment, including artificially provided fluids and nutrition, that uses artificial means to sustain, restore or supplant a vital bodily function and thereby increase expected life span.

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Administrator