

**YALE-NEW HAVEN HOSPITAL  
CLINICAL ADMINISTRATIVE POLICY & PROCEDURE MANUAL**

<b>Administrative Policy Title:</b>	<b>Conscientious Practice</b>	<b>Manual Code:</b>	<b>C:C-3</b>
<b>Reviewed:</b>	9/1/03, 6/1/05, 7/1/10	<b>Revised:</b>	1/21/03, 7/1/07, 4/27/11, 7/19/11
<b>Supersedes Manual Code:</b>		<b>Dated:</b>	1/21/03
<b>Approved By:</b>	Peter Herbert, MD		

**I. PURPOSE:**

This policy is intended to address significant diagnostic and treatment decisions affecting patients (such as life-sustaining treatment (See policy C-L-2)). Circumstances arise in which a hospital patient (or surrogate decision-maker) requests a therapy or procedure that a health care provider feels is medically or ethically inappropriate in the current context and therefore wishes to forgo. The therapy in question may be a specific medical regimen, including intensive care, surgery, cardiopulmonary resuscitation or mechanical ventilation. The health care provider's concern may be based on the belief that the treatment goals cannot be reasonably accomplished, the burdens to the patient (e.g. pain and suffering) outweigh the benefits to an unreasonable degree or the request by the surrogate is inconsistent with the patient's previously expressed wishes.

**II. PROCEDURES:**

In general the Hospital and its personnel make every effort to respect patient (or a surrogate's) wishes (See policy C-P-6). This includes respect for a patient's religious and cultural perspectives and preferences. However there may be times where the wishes of a patient or his/her surrogate are believed to be inconsistent with accepted and appropriate medical practice, or may not be beneficial to the patient and should not be provided.

In most cases, with adequate communication, the patient (or surrogate) and physician should be able to choose a plan acceptable to all involved. Adequate communication in these situations is facilitated by ensuring that the entire clinical team (nurses, housestaff, attending physicians, etc.) involved in the case is familiar with the treatment recommendations, since mistrust can occur when patients or families (and surrogates) receive inconsistent information.

When, despite communication efforts mentioned above, a disagreement between the medical team and patient (or surrogate) persists, a decision ultimately needs to be made to ensure ethically appropriate medical care. A fair and rational process must be used to determine how to proceed. The purpose of the guidelines below is to outline that process.

The Legal and Risk Services Department (LRSD) is available to YNHH staff at any point for legal consultation. However, if a decision is being considered to withdraw or limit life-sustaining treatment against the wishes of a patient (or surrogate), the attending physician must consult the LRSD.

If conflict cannot be resolved, the following stepwise process must be followed to ensure that a just and appropriately examined decision is made.

- A. **Second Opinion** - If there is disagreement between the patient (or surrogate) and care providers about treatment decisions, the attending physician should seek a second physician opinion. In some cases, the physician's Department Chief or physician designee would be the most appropriate person. Independence from the case is recommended. In some cases a sub-specialist may be helpful. The patient (or surrogate) should have the opportunity to discuss the question at hand directly with the second physician. The second physician shall document his/her conclusions in the patient's medical record.

- B. **Ethics Consultation** - If disagreement about treatment decisions persists, an ethics consultation should be sought. Members of the Ethics Committee will review the case and make recommendations to the health care team and patient (or surrogate) in an attempt to facilitate agreement. It is hoped that the recommendations of this Committee, which consists of physicians, nurses, clergy and others from the hospital and outside community, will help resolve the conflict. The Ethics Committee shall document its recommendations in the patient's medical record and share this recommendation with the attending physician and the patient (or surrogate). The opinions of the Ethics Committee are advisory in nature and, as such, are non-binding.

Communication of Ethics Recommendation - After the Ethics Consultation, the attending physician and the Chair of the Ethics Committee or another member of the Ethics Committee, will meet with the patient (or surrogate) to:

1. Review the formal consultation process.
2. Communicate the recommendations regarding treatment.
3. Explain why the recommendations are being made.
4. Answer questions.
5. Attempt to negotiate a plan of care that is ethically sound and mutually agreeable to all relevant parties.
6. Document the conversation in the patient's medical record.

- C. **Transfer Inquiry** - If the conflict still cannot be resolved or if the patient (or surrogate) requests another physician or facility, the attending physician (**with the support of Care Coordination**) should attempt to transfer care to a physician with appropriate hospital privileges, or **if feasible** to another facility. A minimum of one physician and two facilities, if there is a reasonable probability that the patient would be accepted on transfer, should be contacted about the transfer and the results documented in the patient's medical record. For patients with certain medical conditions, transfer to another facility may not be feasible or safe. If transfer is not an option, the reasons should be explained to the patient (and/or surrogate) and documented in the patient's medical record.
- D. **Chief of Staff Consultation** - Should disagreement persist, the attending physician shall call the Chief of Staff (or a physician designee) to review the case. The Chief of Staff (or physician designee) will review the relevant portions of the medical record and discuss the case with the appropriate staff and family members. The Chief of Staff (or physician designee) may make the following decisions:
1. If the Chief of Staff (or physician designee) determines that the requested therapy should be provided or continued, the attending physician will be so advised.
  2. If the Chief of Staff (or physician designee) determines that the requested therapy should not be provided or continued, then neither the hospital nor the physician is obligated to provide the therapy.

The Chief of Staff (or physician designee) shall inform the attending physician as well as the patient (or surrogate) of the decision to continue or limit or discontinue treatment and document the conversation in the patient's medical record.

- E. **Proceed Following Waiting Period** - If a decision has been made to limit or discontinue treatment against the patient's (or surrogate's) wishes, in the event that the patient (or surrogate) continues to object, a minimum of two (2) business days shall be allowed to pass before the implementation. The recommendation of the Chief of Staff (or physician designee) shall be implemented in the absence of **court proceedings** to the contrary. Steps A, B, C, D and E must be completed before limitations on treatment are implemented. Appropriate standards of medical care will continue to be followed which may include, but are not limited to, analgesic or other forms of symptom management.

Questions regarding this policy shall be directed to the Chair(s) of the Ethics Committees (Adult Committee - 203.688.2151; Pediatric Committee - 203.688.2320) or the Legal and Risk Services Department (LRSD - 203.688.2291).