

## **POLICY AND PROCEDURE MANUAL**

<b>DEPARTMENT: Administration</b>	<b>ISSUE NO: 831-200-567</b>
<b>EFFECTIVE DATE: May 2, 2012</b>	<b>SUPERSEDES DATE: NEW</b>

**SUBJECT:** Withdrawing life sustaining treatment from patients without decisional capacity and without a surrogate decision maker.

### **REFERENCES:**

Bioethics Consultation Service: Policy No. 831-200105

Consent: Policy No. 831 200 031

Prognosis Committee: Policy No. 831-200-043

Special Medical Guardianship: Policy No. 831-200-045

University Hospital: Policy No. 831-200-166

Withholding or Withdrawing Life Sustaining Treatment: Policy No. 831-200-126

Cleveland Clinic Policy on Medical Decision-Making for Patients Lacking Decision-Making Capacity Who Do Not Have a Surrogate Decision-Maker 4.20.09

([http://my.clevelandclinic.org/Documents/Bioethics/Policy\\_on\\_Patients\\_without\\_Surrogates.pdf](http://my.clevelandclinic.org/Documents/Bioethics/Policy_on_Patients_without_Surrogates.pdf)) (accessed 2/9/2012)

### **PURPOSE:**

To ensure that patients' rights are respected and to offer guidance to staff on ethical and legal issues involved regarding withdrawing life sustaining treatment for incapacitated patients without surrogate decision makers.

### **POLICY:**

- University Hospital is committed to the principle of patient autonomy and the patient's right to accept, decline (or have withdrawn) medical treatment, even life sustaining treatment, as part of an informed decision making process.
- A patient need not be terminally ill or imminently dying for these guidelines to apply.
- In all cases, the dignity, social, psychological, and spiritual well-being of the patient will be respected. Comfort care will always be provided.

- A decision to forgo life-sustaining treatment is specific to the treatment or type of treatment proposed and does not imply that any other treatments are to be withheld or withdrawn.
- This policy will apply only to those patients without decisional capacity and without surrogate decision makers.

#### **DEFINITIONS:**

- **Decisional Capacity:** the ability of a person to make a specific decision regarding his or her health care. The essential elements of decisional capacity are 1) the ability to communicate choices, 2) the cognitive process of understanding information relevant to the decision, and 3) the ability to make choices consistent with personal values.
- **Life-Sustaining Medical Treatment (LSMT):** medical interventions (including life saving treatments) the purpose of which is to prolong life or prevent imminent death. LSMT may include devices, drugs, artificially provided fluids and nutrition, surgery, and CPR. It does not include those medical or nursing interventions aimed at comfort or hygiene.
- **Surrogate Decision Maker:** an individual, who is willing and whose role is to make healthcare decisions for another person. For a minor child, the recognized decision maker is the parent or court appointed guardian. For adult patients, the surrogate would be, in descending order of legal status:
  1. A person designated by the patient to make surrogate decisions (either by Health Care Representative/Proxy or as established by clear and convincing evidence of the patient's intentions)
  2. The patient's spouse or legal domestic partner
  3. Adult child
  4. Either parent
  5. Adult brother or sister
  6. Other close relative

#### **INDICATIONS:**

- Medical decision-making for patients without decision making capacity and without surrogate decision makers presents ethical challenges for healthcare providers.
- These decisions are especially difficult when they involve withdrawing or withholding life sustaining treatment.
- Decisions regarding withdrawing LSMT may include without limitation, intubation, mechanical ventilation, dialysis, nutrition and/or hydration necessary to sustain life.

## **PROCEDURES:**

The hospital's Social Work Department must use all due diligence in its attempt to locate appropriate surrogate decision makers for those patients without capacity. If these efforts are not successful then the following procedure must be followed:

- The Prognosis Committee must be consulted prior to any decisions made about withdrawing LSMT. Their consultation will be documented in the patient's chart. The Prognosis Committee must concur unanimously with the attending physician's medical opinion (or his or her designee) regarding the withdrawal life-sustaining treatment before any LSMT can be withdrawn.
- An interdisciplinary subcommittee of the University Hospital Bioethics Committee must review the case and approve the withdrawal of LSMT prior to any withdrawal.
- This subcommittee will consist of three to five members with at least one member being a physician, one being a nurse, and one member who is neither a physician nor a nurse, and a member of University Hospital's legal management (who is a non-voting member).
- All voting subcommittee members must agree unanimously with the decision to withdraw LSMT and such agreement must be documented in the medical record.
- This decision must be made based on the patient's best interest (i.e. maximizing benefits and minimizing burdens to the patient).
- When all of the above have been met the attending physician or his/her designee may withdraw life-sustaining medical treatments.
- A nurse or other health care professional may decline to participate in the withholding or withdrawing of measures utilized to sustain life, in accordance with his/her sincerely held personal or professional convictions. In these circumstances, the nurse or other health professional shall inform his/her immediate supervisor of this decision as soon as practical, to cooperate in effecting an appropriate, respectful and timely transfer of care, and to assure that the patient is not abandoned or treated disrespectfully.

## **PHYSICIAN RESPONSIBILITIES/DOCUMENTATION:**

- Assess indications for withdrawing LSMT, consult with relevant colleagues and thoroughly document all discussion, consultation, and decisions in medical record.
- Inform responsible house staff, consultants, and nursing staff.
- Review patient status daily, revise treatment plan if appropriate, and document changes in medical record.
- Regardless of decision to withdraw LSMT, continue all regular patient care with special attention to patient comfort.

<b>APPROVAL BY:</b>	<b>NAME:</b>	<b>SIGNATURE:</b>
Acting President and Chief Executive Officer	James Gonzalez	
Chief Medical Officer	Suzanne H. Atkin	
Chairpersons, Bioethics Committee	Michael Jaker Patricia Murphy	