**LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES**
**HARBOR-UCLA MEDICAL CENTER**

**SUBJECT:** FORGOING TREATMENT GUIDELINES - ADULTS **POLICY NO.** 352A

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| **CATEGORY:** Provision of Care | **EFFECTIVE DATE:** 3/99 |
| **POLICY CONTACT:** Bioethics Committee | **UPDATE/REVISION DATE:** 2/23 |
| **REVIEWED BY COMMITTEE(S):** Bioethics Committee, Medical Executive | |

**PURPOSE:**
To provide guidelines for physicians that address forgoing of treatment, which includes withdrawal (terminating) and withholding (not beginning) treatment.

**POLICY:**
Harbor-UCLA Medical Center Attending Physicians should judge what treatments are appropriate for patients. This includes deciding that a treatment is not medically indicated and therefore should be stopped or not started. Physicians should follow these guidelines in determining how to forgo treatment when indicated.

**I. GENERAL TREATMENT PRINCIPLES**

An adult person capable of giving informed consent has the right to forgo medical treatment after having been fully informed about and understanding the benefits, risks and consequences of treatment alternatives, even when such decisions might result in shortening the individual's life. The patient's wishes may be expressed at the time of the decision or beforehand through an advance directive, Physician Orders for Life-Sustaining Treatment (POLST), or documented instructions to a physician. For adult patients who lack capacity for decision-making, the legal and ethical authority to make decisions regarding treatment rests with a surrogate decision-maker.

A patient younger than 18 years of age is considered a minor and, unless criteria for an emancipated minor are met, decisions about treatment rest with the parent or guardian. An emancipated minor is a minor who (1) has received a declaration of emancipation from the court, (2) is living apart from parents and is self-supporting, (3) is in the Armed Forces, or (4) is married or was previously married. Emancipated minors have the right to consent to or refuse medical treatment, and the principles relevant to medical decision making for adults apply to them.

The Attending Physician is responsible for determining what treatments are medically appropriate for the patient. A treatment that is medically appropriate is one that can achieve any goal of medicine: (1)



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prolongation of meaningful life, (2) preservation or restoration of function, (3) relief of pain and suffering, (4) cure of disease. The patient or surrogate will be involved in all decision-making regarding treatment.

A. Treatment, even if life-sustaining, need not be continued solely because it has been initiated. It may be appropriate in some cases to initiate a treatment to provide time for a patient or a surrogate decision-maker to reach an appropriate decision.

B. The choice of an adult patient who has decision-making capacity to forgo or continue treatment shall be respected. If the patient has declined a specific treatment previously, and subsequently loses decision-making capacity, that treatment will not be initiated unless there is strong evidence that a change in circumstance would have led to the patient making a different decision (Bioethical Principles of Autonomy, Nonmaleficence).

C. Dignity, hygiene and comfort of the patient must be preserved in all circumstances even if specific life-sustaining treatment is withheld or withdrawn (Nonmaleficence, Justice).

D. Consideration of the patient's "quality of life" should always be undertaken from the perspective of the patient (Autonomy, Beneficence).

E. Medication should be given as indicated for pain or discomfort even if it may tend to hasten death but should not be used with the primary intent to cause or hasten death (Nonmaleficence, Beneficence).

F. Physicians should discuss decisions to forgo treatment with other members of the health care team (Nonmaleficence, Justice).

G. Decisions to forgo medically administered nutrition and hydration (e.g., nasogastric tubes, gastrostomies, intravenously administered fluids, and parenteral feeding) should be made in the same way that decisions are made about any other medical treatment. However, a decision should be made only after careful assessment of the unique circumstances of each patient. Because nutrition and hydration have a powerful symbolic significance, it is therefore particularly important that all members of the health care team fully understand the rationale for any order to forgo medically administered nutrition and hydration (Autonomy, Beneficence, Nonmaleficence, Justice).

H. Accurate and complete documentation in the medical record of assessment of decision-making capacity, selection of surrogate, and discussions with patient and surrogate is required (Autonomy, Beneficence, Nonmaleficence, Justice).

## II. DEFINITIONS

A. **Treatment:** Is any procedure that is ordered by a physician, including nutrition and hydration.

B. **Resident or Resident Physician:** Refers to all physicians participating in approved training programs. It includes the terms "intern" and "fellow".

C. **Attending or Attending Physician:** Refers to the physician of record who has the ultimate responsibility for all aspects of the care of the patient, including supervision of resident physicians.

D. **Advanced Care Practitioners:** Certified Nurse Registered Anesthetists, Nurse Practitioners, Physician Assistants, Nurse Midwives.

E. **Adequate Information:** A patient or surrogate should receive sufficient information necessary for him/her to make a reasoned decision about forgoing treatment. This should include the risks and benefits of treatment, alternative forms of treatment, and probable result of receiving no treatment. Information about burdens or risks must be presented clearly and accurately.

F. **Decision-making capacity:** A patient has decision-making capacity if s/he is able to understand the need for treatment, the implications of receiving the forms of treatment that are available and probable consequences of forgoing treatment. Mental illness in itself does not necessarily imply decision-making incapacity. (See section IV, C.) Capacity determination is specific only to the decision that needs to be made.

G. **Advance Directive:** A legally valid written document that states the patient's specific or general wishes about treatment or designates a surrogate. The intent of the advance directive is to provide a way for the patient to have his or her wishes carried out even when s/he lacks decision-making capacity. The advance directive may also designate a surrogate to make decisions at such time as the patient lacks decision-making capacity.

H. **POLST (Physicians Orders for Life-Sustaining Treatment)**: Is a legally valid order signed by a physician regarding end-of-life care choices requested by the patient.

I. Any known prior wishes relayed by the patient to healthcare providers, surrogate or close family member or friend.

J. **Surrogate:** The person designated to make decisions for the adult patient who lacks decision-making capacity. At Harbor-UCLA Medical Center, the surrogate shall be, in order of priority:

1. The person named in a legally valid advance directive.

   or,

2. The previously named conservator of the patient, if as conservator he/she has authority to make health care decisions.

   or,

   The person named under a power of attorney for healthcare decisions.

3. The person whom the patient previously chose in a written or verbal declaration to the physician or family.

4. The patient's spouse.

5. Immediate family members or, if appropriate, significant others.

6. The person whom family members or significant others agree can best speak for the patient.

Social Services is available to assist with surrogate issues, and they should be contacted. In a complicated conflict situation, discussion with Bioethics Committee members may be helpful. In rare

circumstances, legal advice may be necessary. Policy 604A Informed Consent provides additional information about the criteria and role of a surrogate decision-maker.

## III. ROLE OF THE PHYSICIAN

A. The Attending Physician is responsible for ensuring that every adult patient or the surrogate receives adequate information to make informed treatment decisions, as defined in Section III.C.

B. The Attending Physician is responsible for determining if the patient has an Advance Directive or POLST. The Attending Physician must determine the applicability of the document for the current situation.

C. The Attending Physician shall have responsibility for determining the patient's decision-making capacity. If there is uncertainty about the patient's decision-making capacity, the team may request a consultation from Psychiatry. A determination of the patient's decision-making capacity shall be made independently of whether the patient is consenting to or refusing treatment.

D. If the patient has been determined by the Attending Physician or Psychiatry to lack decision-making capacity, decisions will be based on an advance directive or POLST, if available. The patient's wishes as expressed in an advance directive or POLST will be respected. Documented instructions to the physician may also be used as an advance directive. If there is no relevant advance directive or POLST, the surrogate shall be the decision-maker. If there is no surrogate available, see section IV.D.

E. The Attending Physician shall ensure that the patient or the surrogate understands the choices that are available to him/her, including forgoing treatment. It is appropriate for the Attending physician to provide advice concerning forgoing treatment and to make a recommendation to the patient or surrogate. When conflicts arise, the Attending Physician is responsible for coordinating efforts to resolve the situation through discussions with the patient or the patient's surrogate, and other members of the health care team (such as Nurses, Social Workers and Chaplains).

F. Physician-patient confidentiality must be respected. In general, however, a surrogate decision-maker must be provided with the same information that would be given the patient, including the patient's diagnosis and prognosis, treatment options, and likely outcomes of treatment decisions.

G. When the Attending Physician has an objection of conscience to the course of action chosen by the patient or surrogate, the physician may decline to participate in that course of action. However, if another Attending Physician is willing to accept responsibility for the patient, the care of the patient may be transferred to this physician. In doing so, the Attending physician declining to participate must cooperate in transferring care of the patient to the new Attending physician. A decision to transfer care of the patient should be made only after diligent efforts have been made to reconcile the views of the physician and patient or patient's surrogate, and after adequate notice has been given to the patient or surrogate that the current Attending physician will withdraw from the case. Opinions of other members of the health care team who have objections of conscience with regard to forgoing treatment decisions shall be respected.

## IV. PROCEDURE

### A. DOCUMENTATION

The Resident or Attending Physician must document in the Medical Record. the circumstances relating to forgoing treatment. Mid-level practitioners may not write this documentation note or orders to forgo treatment. Documentation must include:

1. Summary of the medical situation.

2. A statement summarizing outcome of discussions with patient, guardian, conservator, family, and/or other patient surrogate, and a statement indicating the basis upon which a particular person(s) has been identified as appropriate representative(s) for the patient. If forgoing treatment is based on an Advance Directive or POLST, the evaluation of that document should be summarized in the note.

3. Documentation of discussion with and concurrence of the Attending Physician prior to forgoing treatment. Attending Physician must enter a note or co-sign the Resident Physician's documentation.

4. The forgoing treatment decision must be reviewed periodically as medically indicated. Progress Notes must reflect the continued re-evaluation of forgoing treatment status.

### B. ADULT PATIENTS WITH DECISION-MAKING CAPACITY OR ADVANCE DIRECTIVE OR POLST

Forgoing treatment decisions of adult patients with decision-making capacity will be respected.

### C. ADULT PATIENTS WHO LACK DECISION-MAKING CAPACITY

If a patient does not have an Advance Directive or POLST or these documents do not apply to the current clinical situation, the appropriate surrogate should make decisions for the patient. If the surrogate wishes to have the patient forgo specific treatment(s), the physician shall ascertain that the decision by the surrogate reflects the patient's wishes to the extent that they are known. Progress Notes of the patient's medical record must include the discussions held with the surrogate, the Attending Physician's recommendations, and the decisions reached. The Attending Physician must enter a note or co-sign the Resident Physician's documentation.

### D. ADULT PATIENTS WHO LACK DECISION-MAKING CAPACITY AND HAVE NO SURROGATE, ADVANCE DIRECTIVE, OR POLST

When a patient has no family or significant other available to act as a surrogate decision maker, Social Services shall be contacted and shall make a diligent effort to identify family or significant others who are willing to act as the patient's surrogate. If a surrogate cannot be identified, treatment decisions shall be made by the Attending physician based on the patient's perceived "best interests":

1. If all members of the physician treatment team agree as to the appropriateness of providing treatment, treatment shall be provided.

2. If all members of the physician treatment team agree that treatment should be withheld or withdrawn, that decision shall be reviewed by the Department Chair or his/her designee. If the reviewer disagrees with the treatment team, treatment shall be provided.

3. If members of the physician treatment team disagree about the appropriateness of providing continued treatment, a consultation with the Department Chair or his/her designee shall be held. If disagreement about providing treatment continues after this consultation, treatment shall be provided.

4. Policy 604A, the Informed Consent Policy, outlines a multi-disciplinary committee approach with respect to consenting for medical care and procedures for patients without a surrogate decision-maker. For the multi-disciplinary committee, "decisions regarding end-of-life care will be limited to patients who are comatose or in a persistent vegetative state, or who are terminally ill with a life expectancy of less than 6 months."

## V. SUMMARY

<table>
<tr><th colspan="3">CIRCUMSTANCES RELATED TO FORGOING TREATMENT</th><th colspan="2">PROCEDURE</th></tr>
<tr><td colspan="3">Patient has decision-making capacity</td><td>Patient's forgoing treatment decisions are respected</td><td>Documentation in Medical Record (Section IV.A)</td></tr>
<tr><td rowspan="4">Patient does not have decision-making capacity</td><td rowspan="2">Patient has Advance Directive or POLST or instructions to physician</td><td>Applies to current situation.</td><td>Patient's wishes are respected</td><td>Documentation in Medical Record (Section IV.A)</td></tr>
<tr><td>Does not apply to current situation (patient's health status has changed)</td><td>Surrogate is decision maker for decisions not applicable in Advance Directive (See Section II.I regarding surrogates)</td><td>Documentation in Medical Record (Section IV.A)</td></tr>
<tr><td rowspan="2">Patient does not have Advance Directive or POLST or instructions to physician</td><td>Patient has surrogate</td><td>Surrogate is decision maker. (Section IV.C)</td><td>Documentation in Medical Record (Section IV.A)</td></tr>
<tr><td>Patient does not have surrogate</td><td>See Section IV.D for special procedures.</td><td>Documentation in Medical Record (Section IV.A)</td></tr>
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## VI. NOTIFYING ADMINISTRATION OF FORGOING TREATMENT DECISIONS

In special instances when a decision to forgo treatment involving life support, nutrition or hydration has been made, Administration should be notified with documentation of the circumstances. These instances should include the following circumstances:

A. When a patient lacks decision-making capacity, and has no surrogate.

B. When a patient is pregnant.

C. When the patient has sole custodial responsibility for the care or support of minors or dependent adults.

D. When the patient is a ward of the court.

E. When the patient's condition may have resulted from possible criminal activity.

F. When there is a possibility medical treatment may have resulted in the patient's present condition.

G. When the surrogate appears not to act in the best interest of the patient.

## VII. CANCELLATION OF FORGOING TREATMENT DECISION

A. The patient may revoke an earlier decision to forgo treatment at any time.

B. A surrogate may revoke an earlier surrogate decision. However, patient wishes as expressed previously (in an advance directive, POLST, or documented conversation) take precedence over the decision of a surrogate.

C. The reasons for revoking an earlier decision must be documented in the progress notes by the resident or Attending Physician, and communicated directly to the Charge Nurse who shall inform other involved staff immediately of the change in status. The Attending Physician must also be notified.

## VIII. CIRCUMSTANCES UNDER WHICH SURROGATE AUTHORITY MAY BE CHALLENGED

Surrogate authority to make medical treatment decisions for the patient should not be recognized or relied upon by a physician in the following circumstances:

A. When surrogate is not willing or available or fails to act as a surrogate decision maker for the patient.

B. When surrogate appears not to act in the best interest of the patient (See Section VI above).

**FORGOING TREATMENT GUIDELINES** were developed by the Bioethics Committee of Harbor-UCLA Medical Center.

Revised and Approved by:
Medical Executive Committee – 2/23

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