

Holy Cross Hospital

Consent: Consent to Withhold or Withdraw Life-Sustaining Treatment

Purpose / Applies to / Policy overview / Definitions / Competent adults: authority to consent / Consent to withhold/withdraw treatment from a patient unable to make informed decisions / Physician Certification of Incapacity / Physician Certification of Condition / Physician certification of medically ineffective treatment / Conflict resolution / Patient support and comfort / References / Revision history / Approval / Appendix A: Definitions

Purpose To outline the Holy Cross Hospital (HCH) policy for withholding or withdrawing life-sustaining treatment for adult patients. *Note:* This policy does not address withholding or withdrawing treatment for minors.

Applies to HCH

- Patient care services staff
- Members of the medical and dental staff

Policy overview Physicians and healthcare staff respect patient decisions in a valid advance directive. Competent adult patients at Holy Cross Hospital may consent to withholding or withdrawing life-sustaining treatment for themselves. Except in cases where treatment has been certified as being *medically ineffective*, *life-sustaining treatment* will not be withheld or withdrawn without the agreement and consent of the patient, agent, or surrogate.*

The physician is responsible for initiating discussion with the patient, *agent*, or *surrogate* about treatment goals and objectives.* Others may be consulted regarding decisions that need to be made.

* But in Israel Neustadter's case, because physicians decided that life-sustaining treatment was "not in the patient's best interests," they somehow reserved the right to withhold it without [certification](#) as being medically ineffective and without consent of surrogate.

Definitions See *Appendix A: Definitions*.

Competent adults: authority to consent Competent adult patients may consent to withholding or withdrawing *life-sustaining treatment* for themselves.

Consent to withhold or withdraw treatment from a patient who is unable to make informed decisions

Consent to withhold or withdraw life-sustaining treatment from a patient who has been certified as unable to make informed decisions may be obtained from the following individuals.

If

Then

The patient has a court appointed guardian who has received prior court approval to make decisions about withhold or withdrawing treatment,

consent may be obtained from the guardian.

Note: If the guardian has not received prior court approval, contact the risk management/patient safety department or the administrative coordinator on off-shifts.

The patient has an agent appointed under a valid advance directive and two physicians have completed the Certificate of Incapacity,

consent may be obtained from the agent.

Note: The agent should follow patient wishes expressed in a valid advance directive

If the patient has no guardian or agent and two physicians have completed the Certificate of Incapacity and the Certification of Condition certifying that the patient is in a terminal condition, a persistent vegetative state, or an end-stage condition,

consent may be obtained from a surrogate in the following priority order:

- Spouse
- Adult child
- Parent
- Adult sibling
- Friend or relative who has signed an Affidavit of Relationship to Patient form. **Note: This form must be completed and put in the patient's medical record.**

Physician Certification of Incapacity If needed, the *Physician Certification of Incapacity* form must be completed by two physicians, one of whom is the attending physician and both of whom are licensed in the State of Maryland. **Note: If a patient is unconscious, the certification of a second physician is not required.**

- The certification must be based on an examination of the patient by one of the two certifying physicians within two hours of signing the certification.
- The certification remains in effect for the duration of the patient's hospitalization unless the patient's condition changes.

Physician Certification of Condition Circumstances in which a surrogate has authority to consent to the withholding or withdrawing of treatment are limited to those where the patient has been certified by two physicians as being in a terminal condition, a persistent vegetative state, or an end state condition by completing the *Physician Certification of Condition* form.*

* But in Israel Neustadter's case, *physicians* withheld treatment despite what they knew to be the surrogate's *lack* of consent, despite knowing that patient was *full-code*, despite clear *documentation* showing patient was *not* terminal and absent completion of the *Physician Certification of Condition* form.

Doctors and hospital were never held accountable (see HolyCrossHealth.com).

Physician certification of medically ineffective treatment An attending physician may withhold or withdraw life-sustaining treatment without consent if he or she, and a second physician, certify that the treatment would be medically ineffective.
The physician must notify the patient, agent, or surrogate of the decision to withhold medically ineffective treatment (see Conflict resolution). The physician must complete the *Certification of Medically Ineffective Treatment* form.

Conflict resolution If there is a conflict about withholding or withdrawing life-sustaining treatment:

- Consult the ethical advisory committee
- Provide support for the family through social services and pastoral care

If there is no resolution following consult with the ethical advisory committee:

- Inform the patient, agent, or surrogate of the right to request transfer to another healthcare provider or facility
- Facilitate the transfer
- Honor patient, agent, or surrogate treatment requests while waiting for transfer, if failure to do so would result in death

Patient support and comfort

The following should continue for all patients regardless of other treatments that may be withheld or withdrawn:

- Psychological support and physical comfort
- Food and water by mouth *Note:* Food and water by mouth **does not** include nasogastric tube feeding.
- Assistance to eat and drink voluntarily

References

- Holy Cross Hospital *Ethical Guidelines*
- Joint Commission on Accreditation of Healthcare Organizations, *The Accreditation Manual for Hospitals (CAMH)*.
- Maryland Health Care Decision Act, Maryland Code, Health-General Article, Section 5-601.

Revision history

- Originating Department: Risk Management/Patient Safety Department
- Original Date: May 1990
- Latest Revision Date: May 2005
- Effective Date: June 8, 2005

Approval

Name	Title	Date
Carolyn Simonsen	VP, Quality and Care Management	06-02-05
Sr. Rachel Callahan	VP, Mission Services	06-02-05
Jennifer Baldwin	SVP, Patient Care Services and CNE	06-03-05
Blair M. Eig, MD	SVP, Medical Affairs	06-02-05
Kevin J. Sexton	President and CEO	06-03-05

Appendix A: Definitions

Agents / Court-appointed guardian / End-stage condition / Life-sustaining procedure / Medically ineffective treatment / Persistent vegetative state / Unable to make an informed decision / Surrogate / Terminal condition

Agents	are appointed to make healthcare decisions for a patient under an advance directive made according to the <i>Maryland Health Care Decision Act</i> .
A court-appointed guardian	is an adult who has not been appointed under an advance directive but who, under certain circumstances, is authorized by Maryland State law to provide consent for someone who is unable to make informed decisions.
End-stage condition	means an advanced progressive irreversible condition caused by injury, disease, or illness that (1) has caused severed and permanent deterioration in organ function leading to complete physical dependency; and (2) for which, to a reasonable degree of medical certainty, treatment would be medically ineffective.
Life-sustaining procedure	is any medical procedure, treatment, or intervention that uses mechanical or other artificial means to sustain or restore a spontaneous vital function. These procedures do not give patients reasonable expectation of recovery from a terminal condition, persistent vegetative state, or end-stage condition. Examples include artificially administered hydration and nutrition and cardiopulmonary resuscitation.

Medically ineffective treatment

means treatment that, to a reasonable degree of medical certainty, will not prevent or reduce the deterioration of health or prevent death.

Persistent vegetative state

means a condition caused by injury, disease, or illness in which (1) a patient has suffered a loss of consciousness exhibiting no behavioral evidence of self-awareness or awareness of surroundings in a learned manner other than reflex activity of muscles and nerves for low level conditioned response; and (2) from which, after the passage of a medically appropriate period of time, it can be determined to a reasonable degree of medical certainty that there can be no recovery.

Unable to make an informed decision

means the inability of adult patients to make an informed decision about the provision, withholding, or withdrawal of a specific medical treatment because they are unable to understand the nature, extent, benefit, and risk of a proposed course of treatment. They are also unable to rationally evaluate the burdens, risks, and benefits of treatment and are unable to communicate a decision.

Surrogate

is an adult who has not been appointed under an advance directive, but is authorized by Maryland State law to provide consent, under certain circumstances, for an individual who is incapable of making informed decisions.

**Terminal
condition**

means an incurable condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, makes death imminent and from which, despite the application of life-sustaining procedures, there can be no recovery.

End of Policy