



## II. Patient's Prior Decision to Withhold or Withdraw

Prior decisions are specific well-settled decisions which may have been included in the following documents: MOLST forms, health care proxy forms, living wills etc.

### a. No Prior Decision

- To the best of my knowledge, the patient has made no prior decisions with regard to withholding or withdrawing life-sustaining treatment. (PROCEED TO SECTION III).

### b. Prior Decision (All prior decisions must be recorded in the medical record.)

#### 1. Substance and Form of Prior Decision

- a. For prior decisions to withhold or withdraw life sustaining treatment, including DNR, the patient previously made the following decision(s) (Check as applicable):

- Consent to a DNR order (allow for natural death)
- Consent to withhold or withdraw the following other life sustaining treatment(s):  
(i.e. intubation\*, pressors, antibiotics, dialysis, and artificial nutrition and hydration)  
\*If intubation is not specified to be withdrawn, it is assumed the patient wants intubation in the setting of respiratory arrest.

---

#### 2. Form of Decision: (Check one. May be oral, if witnessed, or may be written)

The patient made the prior decision in the following manner:

- Orally during hospitalization in the presence of the two witnesses listed below, both of whom are eighteen years of age or older, at least one of whom is a health or social services practitioner affiliated with the hospital.

---

Witness 1<sup>4</sup> (print name)

Signature

Date

Time

---

Witness 2<sup>4</sup> (print name)

Signature

Date

Time

### OR

- In writing (e.g., a living will, MOLST, health care proxy etc.).

#### 3. Attestation of Clinical Circumstances:

- The patient stated that his or her consent to withhold or withdraw treatment would become effective under the following specific clinical circumstances:

I have determined that such circumstances are now present, and the consent is now effective.

---

Clinician<sup>3</sup> (print name)

Signature

Date

Time

---

<sup>4</sup> Witness must be 18 years of age or older.

### III. Document Lack of Surrogate

I, or someone acting on my behalf, despite reasonable and diligent efforts, was unable to identify a Surrogate for the patient who was reasonably available, willing, and competent to act.

\_\_\_\_\_  
Clinician<sup>3</sup> (print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

### IV. Notify the Patient<sup>5</sup> (Check one)

- The patient has been informed that he or she has been determined to lack capacity; **OR**
- The patient has NOT been informed of the above because there is no indication that the patient can comprehend the information.

\_\_\_\_\_  
Clinician<sup>3</sup> (print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

\_\_\_\_\_  
Preferred Language Interpreter Name or Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

Patient refused  
interpreter  
(check box if  
applicable)

Telephone/Video Consent (Check box if applicable), Patient/Guardian/Representative\*\*/Interpreter signature not required.

**NOTE:** If the patient objects to the determination of incapacity or health care decision, the patient's wishes prevail unless there is a medical emergency or a court order (See FHCDCA Policy [MSHS 206]).

<sup>5</sup> If the patient was transferred from a mental hygiene facility, notice must also be given to the director of the facility and to Mental Hygiene Legal Services.

## V. Clinical Criteria for Withholding or Withdrawing Life-Sustaining Treatment

### a. Primary Attending Physician Opinion on Clinical Criteria (Check whether Criteria A or B applies).

Two Clinicians (the Primary Attending Physician, other physicians, nurse practitioners, physician assistants, or licensed House Staff) must make the determination of incapacity **as long as the Primary Attending Physician concurs.**

**Criteria A**

1. I have determined, to a reasonable degree of medical certainty that:
  - the patient has an illness or injury which can be expected to cause death within six months, whether or not treatment is provided; **OR**
  - the patient is permanently unconscious;

**AND**
2. It has been determined that treatment would be an extraordinary burden to the patient.

**Criteria B**

1. I have determined, to a reasonable degree of medical certainty that the patient has an irreversible or incurable condition; **AND**
2. It has been determined that the provision of treatment would involve such pain, suffering or other burden that it would reasonably be deemed inhumane or extraordinarily burdensome under the circumstances.

\_\_\_\_\_  
Clinician<sup>3</sup> (print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

### b. Concurring Clinician's Opinion on Clinical Criteria:

I have made an independent medical determination and concur with the Clinician's clinical determination above.

\_\_\_\_\_  
Clinician<sup>3</sup> (print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

## VI. Confirming Determination of Continued Incapacity

For all subsequent healthcare decisions that are not made at or about the time of the determination of incapacity, ongoing confirmation of continued incapacity is required.

I have confirmed that the patient continues to lack decision-making capacity.

\_\_\_\_\_  
Clinician<sup>3</sup> (print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

## VII. Ethics Process

Should an ethics consultation be helpful, please contact the system operator at 212-241-6500  
(See hospital's Ethics Committee policy).

## VIII. Clinician's<sup>3</sup> Order

The Clinician shall enter the order to withhold or withdraw treatment, including DNR in the medical record **as long as the Primary Attending Physician concurs.**

**THIS FORM MUST BE PLACED IN THE PATIENT'S MEDICAL RECORD.**