GUIDELINES ON THE DETERMINATION OF MEDICALLY INAPPROPRIATE INTERVENTIONS

POLICY:

The traditional goals of medicine have been to heal disease, prolong life, and relieve suffering and pain. In recent years, the goal of respecting autonomous patient choices has been increasingly recognized, leading to policies which permit patients (or surrogate decision-makers) to exercise that autonomy by refusing or limiting an unwanted intervention proposed by the physician. This current policy, which supplements rather than supplants existing policy on patients’ right to limit life-prolonging therapies, provides a mechanism to resolve disputes that may arise when a patient (or surrogate decision-maker) requests, rather than refuses, an intervention which the physician believes to be medically inappropriate.

With this policy, we affirm the traditional goals of medicine, as well as the moral value of physician and institutional integrity, in discerning the limits of medical interventions. Respect for this professional integrity is rooted in traditional ethical concerns, such as avoiding harm to patients, avoiding provision of unseemly useless care, and the just allocation and right stewardship of medical resources; it provides the basis by which the responsible physician might be justified in refusing an intervention requested by the patient. This policy affirms the value of professional integrity, as long as appropriate institutional review supports the determination of medical inappropriateness. It complements the right of patient self-determination, which must remain primary in most clinical circumstances.

This policy also recognizes that although there may be ethical justification in withholding a requested but inappropriate medical intervention, the legal status of such an act is more ambiguous, especially when the intervention involves a potentially life-prolonging technology. Therefore, the goal of the policy is not to justify unilateral action on the part of the physician or the institution, but rather to promote agreement and understanding among all parties.

SCOPE:

All employees.

PURPOSE:

To set forth a procedure to address situations where a patient (or surrogate decision maker) requests an intervention which the physician believes is medically inappropriate.

PROCEDURE:

1. When the responsible physician (normally the attending physician) determines that an intervention is medically inappropriate but the patient (or surrogate
decision-maker) insists that it be provided, the responsible physician’s first step should be to carefully discuss with the patient (or surrogate decision-maker) the nature of the disease, treatment options (including palliative care and hospice referral), the prognosis, and the reasons why the intervention in question is medically inappropriate. Such a discussion may uncover medical misperceptions, unspoken fears, or unrealistic expectations on the part of the patient and family. The physician should take special care to explain that not providing the intervention in question does not mean abandoning medical care, but rather redirecting that care to promote comfort and dignity, with whatever physical, emotional, and spiritual support that might be necessary. In certain circumstances, where the patient’s life or well-being may be irreversibly affected by inaction, it may be appropriate for the physician to proceed with a time limited trial of the requested intervention and afterward discuss with the patient (or surrogate decision-maker) whether continuation of such intervention is consistent with the care goals for the patient.

2. If after such discussion, the patient (or surrogate decision-maker) still insists on a medical intervention that the responsible physician has judged to be inappropriate, the physician should next seek the assistance of one or more institutional resources. The specific source of assistance will vary according to the circumstances of the case but will commonly include one or more of the following: BioMedical Ethics Committee Consult Team, hospital chaplain, hospice, social work, patient care representatives, nursing, legal services department, and community clergy. The Medical and Dental Staff Office will maintain an updated resource list for contacting these agencies.

3. If, after reasonable effort by the responsible physician using the appropriate institutional resources, agreement has still not been reached and the responsible physician still wishes to limit the intervention, then a formal second medical opinion should be sought. This should be from an independent physician of the appropriate specialty mutually agreeable to the responsible physician and the patient or surrogate, who must be willing to personally examine both the patient and the medical record, and then render an opinion about the appropriateness of the intervention in question.

4. If the consultant physician is of the opinion that the proposed intervention is reasonable and medically appropriate, then the responsible physician has the option of now providing the intervention. If the responsible physician still feels that the intervention is inappropriate, he or she should work with the patient or surrogate to transfer the care of the patient to another physician willing to provide the proposed intervention. Physicians cannot be compelled to perform an intervention that they feel is unethical or medically inappropriate; however, laws forbidding physician abandonment of patients also apply. In such cases, orderly transfer to another physician or institution willing to provide the intervention is likely to be the most appropriate solution.
5. If the consultant physician is of the opinion that the proposed intervention is not medically appropriate (i.e., agrees with the attending physician), then the consultant should present that opinion to the patient or surrogate. If the patient or surrogate now agree that the intervention is inappropriate (i.e., they withdraw their request for the proposed intervention), then the responsible physician will continue to provide usual care, including palliative and hospice care when appropriate.

6. If the consultant physician is of the opinion that the proposed intervention is not medically appropriate and the patient or surrogate disagree (i.e., they continue to insist upon the desired intervention), then a meeting of the hospital BioMedical Ethics Committee should be convened. The attending physician will notify the patient (or surrogate) of the meeting, which will be scheduled not less than 72 hours after notification, unless the patient requests and consents to an earlier meeting. The patient (or surrogate decision-maker), the attending physician, the consultant physician, and any other interested party should attend this meeting. The BioMedical Ethics Committee will review the case, seek input from all parties, and after due consideration, recommend action that in the Committee’s view will promote an appropriate resolution of the issue.

7. We anticipate that the vast majority of requests for inappropriate care will be resolved at steps 1 and 2, and that rarely, if ever, will it be necessary to proceed as far as step 6. However, we also recognize that if a case proceeds through step 6 without resolution (i.e., the attending and consultant physician and the BioMedical Ethics Committee all agree that the intervention is inappropriate but the patient or surrogate still insist that it be performed), then there is little legal or ethical precedent as to how to proceed. Such cases should be addressed individually by the hospital administration, Executive Committee of the Medical and Dental Staff, and hospital legal services department. Options include (but are not limited to) transfer of the patient to another facility, or petition to probate court for the appointment of a guardian.

8. Nothing in this policy shall be construed as authorizing the withholding or withdrawal of medically appropriate care against the wishes of the patient or surrogate decision-maker, for any reason including payment source or the policies of third-party payers. The procedures set forth in this policy will be invoked if and only if the responsible physician (normally the attending physician) has determined that a requested intervention is medically inappropriate. Concerns on the part of other health care providers, hospital officials, or family members, as well as issues concerning payment for medically appropriate interventions, should be addressed through other channels.

**Audience:** All Employees

**Date Issued:** 7/7/97
Date Revised: 8/18/05, 7/28/09, 10/30/09

Date Reviewed: 1/12/09, 7/28/09, 10/30/09, 11/10/10, 12/26/11, 12/3/12, 2/3/14

Author: Margaret F. Costella

Owner: Lee M. Duke, M.D.