Advance Directives

PURPOSE:
Children’s, as a regional pediatric center, serves children of all ages as well as some adult patients. For these adult patients, and emancipated minors, federal and state law requires certain procedures regarding Advance Directives.

POLICY:
Seattle Children’s recognizes the right of adult patients to make certain personal health care decisions through Advance Directives. Children’s does not condition the provision of care or otherwise discriminate against an individual on the basis of whether or not the patient has executed an Advance Directive.

PROCEDURE:
I. Definitions
A. “Adult” means a person age 18 years or older.
B. “Advance Directive” means a document or documentation allowing a person to give directions about future medical care or to designate another person to make medical decisions if the individual loses his or her decision-making capacity. There are three kinds of Advance Directives:
   1. Living Will (aka., Health Care Directive or Directive to Physicians) – instructions regarding end of life care such as resuscitation efforts, nutrition, and hydration
   2. Durable Power of Attorney for Health Care – the naming of an agent to make health care decisions on behalf of the patient
   3. Mental Health Advance Directive – intended for patients whose mental health leads to variation of their mental capacity, this type of advance directive may include instructions regarding mental health care as well as the naming of an agent to make mental health care decisions on behalf of the patient

C. “Attorney-in-fact” is a person who exercises decision-making on behalf of an incompetent patient under a Durable Power of Attorney. The attorney-in-fact's power to make health care decisions is set forth in the Durable Power of Attorney Health Care document. It may include the right to consent to the withholding or withdrawal of life-sustaining procedures.
D. “Emancipated minor” means a person age 16 or 17 years with a court-ordered declaration of emancipation that bestows the power and rights of an adult.

II. Formulation of Advance Directive
A. The responsibility for development and execution of an Advance Directive rests with the patient. Children’s, however, provides limited assistance to patients who do not have an Advance Directive but indicate a wish to formulate one. This basic
assistance will include reviewing the contents of Children’s “Advance Directives in
the State of Washington” flyer and providing general guidance.

1. Assistance may be obtained by calling the Social Work Intake line at ext. 72760.
2. Additional community education materials regarding Advance Directives
   may be found in the Family Resource Center’s database for patient and
   family education materials.

B. Because Children’s cares for patients with chronic illnesses across a continuum
   of care, opportunities may exist to discuss Advance Directives on ambulatory visits
   when a patient or legally authorized representative for the patient expresses a desire
   to discuss with the ambulatory practitioner. If a patient provides Children’s staff
   with an advance directive during an ambulatory visit, the staff person will make a
   copy of the document. The copied document will be forwarded to HIM and
   scanned into the patient’s electronic medical record.

III. Notice of Rights and Documentation of Advance Directive upon Admission or
      Registration to the Emergency Department or Observation Status.

A. Upon admission, the Admissions Services Coordinator (ASC) provides a copy of
   Children’s “Advance Directives in the State of Washington” flyer to every patient
   who is an adult or emancipated minor.

1. If an adult or emancipated minor is incapacitated or developmentally unable
   to participate in the decision making process at the time of admission, then
   Children’s “Advance Directives in the State of Washington” flyer is
   provided to the patient’s family or surrogate decision maker as specified in
   Administrative P&P, Legally Authorized Person for Informed Consent
   Decision-Making When a Patient is a Minor.

B. The ASC asks the adult or emancipated minor patient, at the time of admission,
   about the existence of an Advance Directive and enters the appropriate option in
   Children’s registration system.

1. Registration options:
   a. Yes, filed in the Children’s medical record
   b. Yes, filed elsewhere
   c. No, but information was provided
   d. No, but information was declined
   e. No, surrogate decision maker involved
   f. Unable to discuss

2. Patients who are unable to discuss their Advance Directive wishes at the
   time of admission will be referred to the Social Work Department by the
   ASC for follow-up. Social Work will:
   a. Follow-up with the patient or his/her family member within 24
      hours.
   b. Inquire about the existence of an Advance Directive.
   c. Request that the document be brought to the hospital for inclusion in
      the permanent medical record if it exists.
   d. Provide additional information regarding the process for completing
      an Advance Directive.
   e. Provide community resources / referrals as indicated.
3. Because Mental Health Advance Directives have distinct implications on the ability to admit a patient for mental health treatment, Children’s registration process requires a separate entry to denote information regarding Mental Health Advance Directives.
   a. The Admitting Facilitator completes this registration field for all adult and emancipated minor patients being admitted into the PBMU.
   b. If a patient is refusing admission and has a Mental Health Advance Directive, staff may consult with the Director of Risk Management or General Counsel. RCW 71.32.140.

C. When obtained, a copy of the Advance Directive is placed in the medical record.
   1. If the patient indicates that he/she has an Advance Directive already filed with Children’s, the ASC will review the patient’s electronic medical record to confirm the existence of the document. If the document is not there, the ASC will ask that another copy of the document be provided.
   2. If the patient indicates that another provider has the Advance Directive, the ASC will request a copy from the provider and document the attempt to obtain.
   3. If the patient reports that they have an advance directive, but failed to bring a copy to the hospital, ASC staff will document, “Not available, follow-up required”. Within 36 hours, ASC staff will follow-up with the patient in an attempt to obtain a copy of the Advance Directive. If after 36 hours, the patient (or family) is still unable to provide a copy, ASC staff will provide a copy of Children’s “Advance Directives in the State of Washington” flyer and document “In follow-up, directive still not available. Patient provided information on how to complete a new directive.”

D. Upon discharge, the printed Advance Directive is incorporated into the permanent medical record.

IV. Notice of Rights and Documentation of Advance Directive upon Registration for Day Surgery or Admission After Surgery
A. Upon surgery admission, the Family Service Coordinator (FSC) provides a copy of Children’s “Advance Directives in the State of Washington” flyer to every patient who is an adult or emancipated minor.
   1. If an adult or emancipated minor is incapacitated or developmentally unable to participate in the decision making process at the time of admission, then Children’s “Advance Directives in the State of Washington” flyer is provided to the patient’s family or surrogate decision maker as specified in Administrative P&P, Legally Authorized Person for Informed Consent Decision-Making When a Patient is a Minor.
   2. Patients who desire additional education or assistance formulating an Advance Directive will be referred by the FSC to Social Work for assistance.

V. Notice of Rights and Documentation of Mental Health Advance Directives upon Registration for Ambulatory Psychiatry Encounter
A. Upon registration, the Family Service Coordinator (FSC) provides a copy of Children’s “Advance Directives in the State of Washington” flyer to every patient
who is an adult or emancipated minor and inquires about the existence of a Mental Health Advance Directive.

B. The FSC enters the appropriate option in Children’s registration system for Mental Health Advance Directives.
   1. Registration options:
      a. Yes, filed in the Children’s medical record
      b. Yes, filed elsewhere
      c. No, but information was provided
      d. No, but information was declined
      e. No, surrogate decision maker involved
      f. Unable to discuss

C. When obtained, a copy of the Mental Health Advance Directive is sent to HIM and scanned into the patient’s electronic medical record.
   1. If the patient indicates that he/she has a Mental Health Advance Directive filed with the State Living Will Registry, the FSC will attempt to download a copy from the database at http://www.uslivingwillregistry.com and submit it to the patient’s medical record.
   2. If the patient indicates that another provider has the Mental Health Advance Directive, the FSC will request a copy from that provider.

VI. Provision of Patient Care and Implementation of Advance Directives

A. Implementation of an Advance Directive must be by the attending physician.
   1. Before an Advance Directive involving withholding or withdrawing life-sustaining treatment is implemented, physicians or staff may consult with the Director of Risk Management at x7-5165 or General Counsel at x7-2044 to determine whether the directive meets the substantive and procedural requirements of law.
      a. When there is conflict between the terms of an Advance Directive and the patient’s intent to provide an anatomical gift, and the patient is no longer competent for consultation, physicians or staff should consult with the organ procurement organization, Risk Management, or General Counsel prior to withholding or withdrawing measures necessary to ensure medical suitability. RCW 68.64.180. See Care at Death, Organ Donation, and Autopsy P&P.

B. The attending physician is responsible for periodically reviewing the Advance Directive with the patient as needed based on changes in the patient’s current health status.

C. A patient may present with a medical emergency may preclude an appraisal of an Advance Directive before care is initiated. Under these circumstances, the attending physician should proceed with emergency care to stabilize the patient before evaluating the contents of the directive.

D. The Medical Staff may determine the conditions under which its staff members will not honor Advance Directives for reasons of personal conscience. The Medical Staff may also define a process to allow transfer of a patient to a new attending physician who will honor the directive.
VII. Revocation of an Advance Directive
A. Living Will.
A patient may revoke a Living Will at any time, regardless of the patient’s mental state or competency, by
1. Destroying the directive,
2. Signing and dating a written statement of revocation, or
3. Making a verbal statement of revocation. RCW 70.122.040.
B. Durable Power of Attorney for Health Care.
A Durable Power of Attorney for Health Care continues in effect until revoked by the competent patient, by a court-appointed guardian, or by court order. RCW 11.94.043.
C. Mental Health Advance Directive.
Using a written statement, a patient may revoke a mental health advance directive, but the terms of a patient’s mental health advance directive may dictate to what extent the patient may revoke the directive. RCW 71.32.080. Staff may consult with Risk Management or General Counsel.
D. When an attending physician has received communication of revocation, he or she should document the receipt of revocation in the patient's medical record.

VIII. Immunity from Liability
Any health care provider acting without negligence and in good faith in reasonable reliance on an advance directive shall not incur any liability. RCW 70.122.051 (Natural Death Act), 11.94.040 (Power of Attorney), and 71.32.170 (Mental Health Advance Directive).

IX. Education
A. Appropriate staff will be provided in-service education on Advance Directives.
B. Community education materials on issues concerning Advance Directives are maintained by the Children’s Family Resource Center.
C. Policies relating to Advance Directives will be provided to new medical staff members during the initial credentialing process.

See also:
- Clinical P&P, Assessment and Plan of Care for Inpatient and Ambulatory Settings
- Clinical P&P, Care at Death, Organ Donation, and Autopsy

References:
42 USC 1396a(w)(1)(A)
42 CFR §482.13 Condition of participation: Patient’s rights.
42 CFR §489.100 Definitions.
42 CFR § 489.102 Requirements for providers.
RCW 11.94 Power of attorney.
RCW 13.64 Emancipation of minors.
RCW 68.64 Revised Uniform Anatomical Gift Act.
RCW 70.122 Natural Death Act.
RCW 71.32 Mental health advance directives.
WAC 246-320-141 Patient rights and organizational ethics.
Joint Commission RI.01.05.01, The hospital addresses patient decisions about care, treatment, and services received at the end of life.

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