

NIMKEE MEMORIAL WELLNESS CENTER

SUBJECT: Advanced Directives
Durable Power of Attorney for Health Care

POLICY NO: AD 1.001

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APPROVED BY: Health Board

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PURPOSE: This policy is established to provide guidelines for health care staff to discuss the designation of a patient advocate with clients who are 18 years of age or older to make health care decisions and provide direction for health care in the event they become incapacitated.

REFERENCES:

- Michigan State Medical Society
The Designation form and patient brochure were developed and approved by the Michigan State Medical Society, the State Bar of Michigan, the Michigan Health and Hospital Association, and the Michigan Osteopathic Association.
- Estates and Protected Individuals Code (excerpt); Act 386 of 1998; MCL 700.5506-15.

DEFINITIONS:

- Advance Directive - A written document in the form of a living will or durable power of attorney prepared by a competent individual that specifies what, if any, extraordinary procedures, surgeries, medication or treatments the patient desires in the future, when he or she can no longer make such decisions about medical treatment (guardians of persons with developmental disabilities do not have the legal authority to sign an advance directive, including a DNR).
- Patient – An individual who makes a patient advocate designation.
- Patient Advocate - An individual who is named in a patient advocate designation to exercise powers concerning another individual's care, custody and medical or mental health treatment or authorized to make an anatomical gift on behalf of another individual, or both.
- Durable Power of Attorney for Health Care - An advance directive that designates another person (Patient Advocate) to make health care decisions regarding how aggressive treatment should be if the patient becomes incompetent or is unable to make decisions in the future, for example, in the case of coma or a persistent vegetative state. The document also lists medical

treatments that the person would not want to have. Durable power of attorney goes into effect when the document is signed.

- Do Not Resuscitate (DNR) - A written document prohibiting attempts to restore life (e.g., respirations, circulation etc. by artificial means once they have stopped). The DNR may be revoked at any time. To be legal or valid, a DNR must be signed by the declarant, who must be at least 18 years of age and of sound mind, the declarant's attending physician and 2 witnesses that are not related to the declarant (guardians of persons with developmental disabilities do not have the legal authority to sign a DNR).

Note: Specific Instructions for Life Sustaining Treatment are indicated in the Designation of Patient Advocate Form, page 3 and 4 under Instructions for Care, 2.c. choice1-3.

- Living Will - A Living Will is an advance directive, prepared when an individual is alive, competent and able to make decisions, regarding that person's specific instructions about end-of-life care. Although a Living Will is not recognized by Michigan statute, Living Wills allow people to specify whether they would want to be intubated, ventilated, treated with medications, shocked with electricity (to stop life-threatening heart rhythms) and fed or hydrated intravenously (if unable to take food or drink). Some also specify the person or persons (Patient Advocate) who have power of attorney to make health care decisions on the patient's behalf, if the patient is no longer competent to make choices for themselves.

Note: Specific Instructions for Life Sustaining Treatment are indicated in the Designation of Patient Advocate Form, page 3 and 4 under Instructions for Care, 2.c. choice1-3.

POLICY:

- Encourage all registered clients of NMWC who are 18 years of age and older to complete a Durable Power of Attorney for Health Care Designation Form.
- A Patient Advocate's power becomes effective only while the patient is unable to participate in medical treatment decisions.
- A Patient Advocate may decide to withhold or withdraw life-sustaining treatment, but only if the patient has authorized this in a clear and convincing manner and has acknowledged that death could result. This power is subject to the current desire of the patient to be provided life-sustaining treatment and cannot be exercised on behalf of a pregnant patient if the decision would result in her death, to engage in homicide or euthanasia, or to force medical treatment a patient does not want due to religious beliefs.
- The patient has the right to revoke a Designation at any time. If the patient is unable to participate in medical treatment decisions, they may still revoke the Designation at any time and in any manner by which they are able to communicate an intent to revoke.

- The Patient Designation Form will be made a part of the patient's medical record. When a patient is determined to be unable to participate in medical treatment decisions by his/her primary care physician and another physician, the primary physician will obtain informed consent from the Patient Advocate.
- Instruct the patient to keep the signed original document with their personal papers at home. The patient should provide a photocopy to their medical provider, mental health professional, family, the facility they receive treatment through and to their Patient Advocates.
- Instruct the patient to review the document periodically and when there is a change in their health or family status. Once they review the document, if it still expresses their intent, they should sign and date under the Reaffirmation section on page 6.

PROCEDURE:

Patient responsibility: Completion of the Designation of Patient Advocate Form and Directions for Health Care

1. Appointment of a Patient Advocate: Include the patient name, the patient advocate appointed and their address.
2. Appointment of Successor Patient Advocate(s)
 - 2.1. Successor Patient Advocate(s) are designated in the event the Patient Advocate does not accept the appointment, is incapacitated, resigns or is removed.
 - 2.2. The Successor Patient Advocate will have the same powers and rights as the Patient Advocate.
3. Instructions for Care – The patient shall cross out and initial any instructions they do not want.
 - 3.1. General Instructions – The patient acknowledges that the Patient Advocate shall have the authority to make all decisions and to take all actions regarding their care, custody, medical, and mental health treatment including but not limited to a, b, c (listed on form).
 - 3.2. Specific Instructions
 - a. Specific instructions regarding care the patient does want.
 - b. Specific instructions regarding care the patient does not want.
 - c. Specific instructions regarding life-sustaining treatment.
 - 3.2.c.1. Three choices are provided. The patient does not have to choose any of the choices provided, however if he/she does choose one, he/she must sign below the choice.
 - d. Specific instructions regarding medical examinations.
 - e. Specific instructions regarding anatomical gifts. The patient must sign on the line if he/she agrees to the statement.

- f. Specific instructions regarding mental health treatment.
 - 3.2.f.1 The patient shall read and indicate the physician and/or mental health practitioner they request to designate to provide their mental health assessment/evaluation.
 - 3.2.f.2 The patient shall read this section and sign their name if they consent.
 - 3.2.f.3 The patient shall read this section and sign if they agree to waive their right to revoke their Patient Advocate's designation regarding the power to make mental health treatment decisions.

4. Patient consent and signature

- 4.1. If the patient does not have a Patient Advocate or a Successor Patient Advocate able to act, the patient consents for the instructions provided in the document to be followed and that the document is treated as conclusive evidence of his/her wishes.
- 4.2. The patient agrees that their intent is that anyone participating in their medical or mental health treatment shall not be liable for following the directions of their designated Patient Advocate that are consistent with their instructions.
- 4.3. The patient agrees that the document is signed in the state of Michigan and that the laws of the state of Michigan govern all questions concerning its validity, the interpretation of its provisions and its enforceability. The patient also consents that the document be applied to the fullest extent possible wherever they may be (ie. different state).
- 4.4. The patient is to sign and date the document on page 6 in the presence of at least 2 witnesses who meet the requirements in the witness statement.
- 4.5. The patient's name and address shall be printed or typed below the signature.

5. Witness Statement and Signature

- 5.1. If the witness does not personally know the person who is signing the designation form, the witness should ask for identification, such as a driver's license.
- 5.2. The witness(s) shall be of sound mind and under no duress, fraud, or undue influence and may not be the patient's wife, or husband, partner, child, grandchild, brother or sister.
- 5.3. The witness may not be the presumptive heir, the known beneficiary of the patient's will at the time of witnessing, his/her physician or a person named as the Patient Advocate.
- 5.4. The witness may not be an employee of a life or health insurance provider for the person who signed, an employee of a health facility that is treating him/her, or an employee of a home for the aged where he/she resides, or of a community mental health services program or hospital that is providing mental health services to him/her.
- 5.5. The witness must be at least eighteen years of age.

- 5.6. Only two witnesses are required. A third witness will protect the validity of the Designation if one witness is later found to be ineligible as a witness.
 - 5.7. If a patient changes their wishes, they should destroy the document, complete a new one and give it to everyone who has a copy of the old version.
6. Reaffirmation - Instruct the patient to review the document periodically and when there is a change in their health or family status. Once they review the document, if it still expresses their intent, they should sign and date under the Reaffirmation section on page 6.
7. Acceptance of Patient Advocate
 - 7.1. The Patient Advocate and Successor Patient Advocate must review, understand and agree to take reasonable actions to follow the desires and instructions of the Patient as indicated in the Designation of Patient Advocate, in other written instructions of the Patient and as they have discussed verbally.
 - 7.2. The Patient Advocate and Successor Patient Advocate must also review, understand and agree to the restrictions that are required by 1998 Public Act 386, MCLA 700.5506 et seq.
 - 7.3. Once the Patient Advocate and Successor Patient Advocate have reviewed the documents, and agree to accept responsibility, they shall sign their name, print/type their name, address and document their home and work phone numbers.
 - 7.4. If the Patient Advocate is unavailable to act after a reasonable amount of effort has been made to contact them, the Patient Advocate agrees to delegate their authority to the persons the Patient has designated as Successor Patient Advocate in the order assigned.

Staff Responsibility:

1. Educate and inform patients, age 18 years and older on the importance of establishing advanced directives and completing a Designation of Patient Advocate Form and Directions for Health Care.
2. Provide the Designation of Patient Advocate Form and Directions for Health Care Form for the patient to review when requested.
3. When a patient submits a completed Designation of Patient Advocate Form or other legal document that has been reviewed by their attorney, to NMWC, the Registration Desk staff will document in the RPMS, on page 9, #4.
 - 3.1. Add yes, for Durable Power of Attorney and the date the document was received.
 - 3.2. Front desk staff will notify the Medical Clinic staff of the DPOA document.
 - 3.3. The primary provider will review the document with the patient and enter it into the clinical warnings section of the E.H.R.
4. A copy of the of Patient Advocate Form and Directions for Health Care will be placed in the patients medical record.