ADVANCE DIRECTIVES

REVIEW/REVISION HISTORY:

Effective: 12/15/89
Revised: 9/1/94
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Revised: 7/1/15

SUMMARY OF REVISION/REVIEW:

I.A.1. - Added Health Care Directive witness criteria
Added II.A.2. on designating an alternate Durable Power of Attorney for Health Care
IV.A.1. - Removed form reference

APPROVED:

Signature on file

G. STEVEN HAMMOND, PhD, MD, MHA
Chief Medical Officer

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KEVIN BOVENKAMP, Assistant Secretary for Health Services

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BERNARD WARNER, Secretary
Department of Corrections

Signature on file
REFERENCES:

DOC 100.100 is hereby incorporated into this policy; RCW 11.94; RCW 70.122; DOC 630.520 Mental Health Advance Directives; McNabb v. Department of Corrections, et al., 163 Wn.2d 393, 180 P.3d 1257 (2008)

POLICY:

I. An offender may give instructions for management of his/her health care in the event that s/he is unable to express his/her wishes, either by communicating those specific wishes in advance in a Health Care Directive (i.e., Living Will) or giving someone else the authority to make the decisions for him/her in a Durable Power of Attorney for Health Care. These documents are known as Advance Directives.

II. Nothing in this policy shall be construed to condone, authorize, or approve mercy killing or active euthanasia.

III. Mental Health Advance Directives will be handled per DOC 630.520 Mental Health Advance Directives.

DIRECTIVE:

I. Health Care Directive

   A. An offender may, at any time, sign a Health Care Directive outlining his/her wishes with regard to treatment, including life-sustaining treatment. S/he will be informed by the attending physician of his/her right to have life-sustaining treatment withheld or withdrawn and the consequences of those actions. This discussion will be recorded in the offender health record.

      1. DOC 13-311 Health Care Directive must be signed by the offender and witnessed by 2 individuals who are not employees, are not related to the offender by blood or marriage, and cannot benefit from the offender’s death.

II. Durable Power of Attorney for Health Care

   A. An offender may, at any time, establish a Durable Power of Attorney for Health Care. In so doing, the offender designates an agent to make health care decisions when the offender is unable to do so and establishes the powers of that agent.

      1. DOC 13-392 Durable Power of Attorney for Health Care must be signed by the offender and notarized.
2. The offender may designate one Durable Power of Attorney for Health Care and one alternate who can serve in the event the primary designee is unavailable.

B. If an offender selects another offender to serve as power of attorney, that selection must be reviewed and approved by the Superintendent.

C. The Department will make all reasonable efforts to contact the identified agent if s/he is needed.

III. Substitute Documents

A. While Department forms are preferred, a legally valid Health Care Directive, Living Will, Durable Power of Attorney for Health Care, or other Advance Directive will be honored in the absence of the corresponding Department form.

IV. Withholding or Withdrawing Life-Sustaining Treatment

A. For medically necessary and indicated life-sustaining treatment to be withheld or withdrawn:

1. The offender must have a valid DOC 13-311 Health Care Directive or equivalent for health care on file, and

2. There must be a diagnosis of a terminal condition by the attending physician, or a diagnosis of a permanent unconscious state by 2 physicians, documented in the permanent offender health record.

B. When applying an Advance Directive, the attending physician should ensure that all steps comply with RCW 70.122.030 and are consistent with the offender’s wishes.

C. As Department forms may not be recognized by community emergency response personnel and other community health care providers, an offender who wishes to have life-sustaining treatment withheld or withdrawn should also have a valid Physician Orders for Life-Sustaining Treatment (POLST) on file.

D. A valid DOC 13-311 Health Care Directive, POLST, or non-Department Advance Directive will not preclude administration of medications or procedures necessary to alleviate pain.

V. Revocation

A. The offender may revoke any Advance Directive at any time without regard to mental state or competency by:
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1. Signing and dating a written revocation,  
2. Verbally stating his/her intent to revoke, or  
3. Canceling, defacing, or otherwise destroying the Advance Directive, either personally or by direction to another person in the offender's presence.

B. Such revocation becomes effective only when it is communicated to the attending physician by the offender or by a person acting on the offender's behalf.

C. Upon receiving the revocation, the attending physician will record the time and date in the offender health record and remove the Advance Directive from the record for return to the offender or person acting on the offender's behalf.

D. There shall be no criminal or civil liability on the part of any person for failure to act upon a revocation made pursuant to this policy, unless s/he has actual or constructive knowledge of the revocation.

E. If the offender becomes comatose or is rendered incapable of communicating with the attending physician, any Advance Directives shall remain in effect until the offender's condition renders him/her able to communicate with the attending physician.

VI. Self-Harm

A. Advance Directives to withhold life-sustaining treatment, POLST, and Durable Power of Attorney for Health Care will not be valid in cases where an otherwise healthy offender has taken deliberate action to harm him/herself, including attempting suicide.

VII. Liability

A. Any physician, health care provider acting under the direction of a physician, or health facility personnel who participates in good faith in the withholding or withdrawal of life-sustaining treatment from an offender per RCW 70.122 shall be immune from legal liability, including civil, criminal, or professional conduct sanctions, unless otherwise negligent.

B. No nurse, physician, or other health care practitioner is required by law or contract to participate in the withholding or withdrawal of life-sustaining treatment if s/he objects to doing so. However, s/he must notify his/her supervisor, immediately upon learning that an offender has an order in place, of his/her unwillingness to carry out such an order.
C. No person may be discriminated against in employment or professional privileges because of his/her participation or refusal to participate in the withholding or withdrawal of life-sustaining treatment.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORMS:

DOC 13-311 Health Care Directive
DOC 13-392 Durable Power of Attorney for Health Care