LIFE-SUSTAINING TREATMENT FOR INCAPACITATED PATIENTS
HEALTH CARE DECISIONS ACT ALGORITHM FOR PHYSICIANS

Chart 1: Prior Informed Consent

Did patient, when capacitated, give informed refusal of treatment?

- No
  - Is treatment considered to be medically ineffective?
    - No
      - Go to Chart 2.
    - Yes
      - Develop and implement treatment and symptom management plan.
  - Yes
    - Does consulting physician concur?
      - Yes
        - Withhold/withdraw treatment; initiate palliative care plan.
      - No
        - Go to Chart 2.
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Chart 2: Decisional Advance Directive (“AD”)

Does patient have AD?  NO  Go to Chart 4 if surrogate is available or Chart 5 if not.

YES

Does AD contain a decision about treatment?  NO  Go to Chart 3.

YES

Does AD decline treatment?  NO  Is the treatment considered to be medically ineffective?

YES

Is patient certified to be in terminal or end-stage condition or persistent vegetative state?

YES  NO

Withhold/withdraw treatment; initiate palliative care plan.

NO

NO

Would withholding/withdrawal of treatment breach standard of care?

YES  NO

Develop and implement treatment and symptom management plan.
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Chart 3: Health Care Agent Available

Does AD name a health care agent who is available? → NO → Go to Chart 4 if surrogate is available or Chart 5 if not.

YES

Does agent decline the treatment?

YES

Withhold/withdraw treatment, initiate palliative care plan.

NO

Does consulting physician concur?

YES

NO

Is treatment considered to be medically ineffective?

YES

Develop and implement treatment and symptom management plan.

NO
Chart 4: No Agent, Surrogate Available

Do all available surrogates at same level agree that the treatment should be declined?

- NO
  - Do all available surrogates at same level agree that the treatment should be provided?
    - NO
      - Consult ethics committee. Physician has immunity when following committee recommendation.
    - YES
      - Is patient certified to be in terminal or end-stage condition or persistent vegetative state?
        - NO
          - Is the treatment considered to be medically ineffective?
            - YES
              - Develop and implement treatment and symptom management plan.
            - NO
              - Would withholding/withdrawal of treatment breach standard of care?
                - YES
                  - Withhold/withdraw treatment; initiate palliative care plan.
                - NO
                  - YES
                    - Does consulting physician concur?
                      - NO
                        - NO
                      - YES
                        - YES

- YES
  - YES
**Chart 5: No Advance Directive, No Surrogate**

1. **Is the treatment considered to be medically ineffective?**
   - **NO**
     - Provide care per usual clinical practice and, if necessary, initiate steps for guardianship.
   - **YES**
     - **Does consulting physician concur?**
       - **NO**
         - Withhold/withdraw treatment; initiate palliative care.
       - **YES**
         - Withhold/withdraw treatment; initiate palliative care.
Glossary

1. “Certified” = stated in writing by two physicians, attending and consulting.

2. “Concur” = in writing.

3. “Informed consent” or “informed refusal” = decision about concrete, near-term options, not open-ended choice about future contingencies.

4. “Medically ineffective” = physician’s conclusion, based on literature and clinical experience, that intervention stands little or no chance of maintaining health status or reversing ongoing dying process.

5. “Same level” = having the same priority in the following priority order: (1) court appointed guardian; (2) spouse; (3) adult children; (4) parents; (5) adult siblings; (6) other family members and friends.