PURPOSE:

All adults receiving health care have certain rights, including, but not limited to, the right to confidentiality of their personal and medical records and to know about and consent to the services and treatments they may receive. The Patient Self-Determination Act ("PSDA") is a federal law that requires healthcare providers to give patients written information about their right to make choices about their healthcare. This information must include a description of the ways in which individuals can make healthcare decisions in advance.

PHILOSOPHY:

King County Public Hospital District #2 d/b/a EvergreenHealth ("EvergreenHealth") is committed to allowing patients to make their own decisions about their healthcare, especially regarding end-of-life decisions. This right is especially significant today because modern medical technology can prolong the lives of people who are terminally ill or permanently unconscious even when there is no hope of recovery. In such circumstances, EvergreenHealth recognizes the right of each patient to decide whether to die without extraordinary treatment or to have life-sustaining treatment instituted to prolong life as long as reasonably possible.

This policy is intended to provide procedures to ensure that patients' Advance Directives are honored by EvergreenHealth staff to the extent permitted by law. It is specifically intended to comply with federal law, "The Patient Self-Determination Act", sections 4206 and 4761 of the Omnibus Budget Reconciliation Act of 1990 (OBRA/90), the Washington Natural Death Act (RCW 70.122), and the Washington Mental Health Advance Directives Act (RCW 71.32).

EvergreenHealth will not discriminate against any individual based on whether the individual has executed an Advance Directive or require that a patient has an Advance Directive as a condition of receiving services. EvergreenHealth strongly encourages, however, that each patient have an Advance Directive for the patient’s peace of mind and to enable EvergreenHealth to comply insofar as possible with the patient’s desires regarding services to be provided.

TYPES OF ADVANCE DIRECTIVES:

"Advance Directives" are written instructions to healthcare providers that are typically and preferably prepared before medical or mental health treatment is actually needed. An Advance Directive describes the type of care or treatment a patient would want if a
medical condition or mental illness occurs that makes it impossible for the patient to consent to medical or mental illness treatment at the time it is needed. Some types of Advance Directives are meant to be used only if the patient is terminally ill or in a permanent unconscious state. There are several different types of Advance Directives in Washington State, including the following:

- **Living Will** (also known as a “Health Care Directive”). A Living Will is allowed under a Washington State statute, the "Washington Natural Death Act", RCW 70.122.010. It is a written document that enables a patient to tell his or her doctor what he or she does or does not want if diagnosed with a terminal condition or is permanently unconscious. The patient may choose to not prolong the process of dying from an incurable and irreversible condition. The patient must, when legally capable, sign and date the Living Will in the presence of two witnesses, who must also sign. These two witnesses may not be, at the time of signing, any of the following:
  - Related to the patient by blood or marriage;
  - Entitled to inherit the patient's money or property;
  - A person to whom the patient owes money;
  - The patient's doctor or the doctor's employees; or
  - An employee of the health care facility where the patient is receiving healthcare.

The patient can change his or her Living Will at any time so long as he or she is mentally capable. If the patient is not mentally capable, he or she can cancel or revoke it, but cannot change it or write a new one. The patient can cancel his or her Living Will by destroying it or having someone else destroy it in their presence; or signing and dating a written statement that he or she is canceling it; or verbally telling his or her doctor, or instructing someone to tell his or her doctor, that he or she is canceling it. The patient, or someone they have instructed, must tell the attending physician before the cancellation is effective.

- **Durable Power of Attorney for Healthcare** ("DPOAHC"). The DPOAHC is another type of Advance Directive used in Washington State. It is a written document that allows the patient to designate someone to make "informed consent" health care decisions for the patient if he or she is unable to make them at the time treatment is needed. The patient can also describe what type of health care decisions he or she will allow to be made on his or her behalf and under what circumstances the decisions should or may be made. A DPOAHC becomes effective only by a court order or if a physician determines the patient is legally incapable of making healthcare decisions for him or herself. It does not need a witness nor must it be notarized in Washington State unless it also includes powers for financial matters.

- **Physician Orders for Life-Sustaining Treatment** ("POLST"). The POLST form is technically not an Advance Directive and does not take the place of one. It translates an Advance Directive into physician orders. It is a "portable" Physician Order form that
describes the patient's “code” directives. It is intended to go with the patient from one care setting to another. See policy ADM 157.1 Physician Orders for Life-Sustaining Treatment for more information.

- **Organ or Tissue Donation:** The Washington State Uniform Anatomical Gift Act (RCW 68.50) allows an individual to specify whether he or she desires to donate specific body parts or his or her entire body upon death. This can be done via a written statement witnessed by two people, by checking the back of his or her driver's license, or in his or her will. Please note, however, that making the designation in a will is the least effective method as a will may not be located until after it is too late to make the desired donation. See Patient Services policy 728.19 Organ/Tissue Donation for more information.

- **Mental Health Advance Directive** is a type of Advance Directive allowed under Washington State law (RCW 71.32). It is designed to provide an individual with legal capacity the ability to control decisions relating to his or her own mental health care. It is a written document that describes the patient's directions and preferences for treatment and care during times when he or she is having difficulty communicating and making decisions regarding his or her mental health care. It can inform mental health providers what treatment the patient does or does not want and identify an "agent" who can make decisions and act on behalf of the patient.

  o It is based on the following concepts:
    - Some mental illnesses cause individuals to fluctuate between capacity and incapacity;
    - During periods when an individual's capacity is unclear, he or she may be unable to access needed treatment due to an inability to give informed consent;
    - Early treatment may prevent him or her from becoming so ill that involuntary treatment is necessary; and
    - Mentally ill individuals need some method of expressing their instructions and preferences for treatment and providing advance consent to or refusal of treatment.

  o A mental health advance directive provides the individual with a full range of choices and allows him or her to document whether he or she wants to be able to revoke a directive during periods of incapacity. The law requires providers to respect an individual's mental health advance directive to the fullest extent possible. It may include:
    - Consent to or refusal of particular medications or inpatient admissions;
    - Who can visit the patient in the hospital;
    - Who the patient appoints to make his or her decisions regarding mental health treatment (i.e., the "agent");
    - Anything else the patient wants or doesn't want in his or her future mental
health treatment.

- The "agent" named by the patient must be at least 18 years old and cannot be the patient's physician, case manager, or residential provider unless that person is also his or her spouse, adult child, or sibling.

- A provider may refuse to follow a mental health advance directive under the following instances:
  - The patient's instructions are against hospital policy or are unavailable;
  - Following the directive would violate state or federal law;
  - The instructions would endanger the patient or others;
  - The patient is hospitalized under the Involuntary Treatment Act or is in jail.

**DEFINITIONS:**

*"Adult"* means any individual who has attained the age of majority (18 years old) or is an emancipated minor.

*"Attending Physician"* means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient [RCW 70.122.020(2)].

*"Capacity"* means a patient's ability to make healthcare decisions and shall be determined in accordance with Policy ADM 106.1 "Informed Consent on Behalf of Incapacitated Patients".

*"Incapacitated"* means an adult who: (a) is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; (b) is unable to understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; (c) is unable to communicate his or her understanding of treatment decisions; or (d) has been found to be legally incompetent pursuant to RCW 11.88.010(1)(e).

*"Life-Sustaining Treatment"* means any medical or surgical intervention that uses mechanical or other artificial means, including artificially provided nutrition and hydration, to sustain, restore, or replace a vital function which, when applied to a patient who is in a terminal or permanently unconscious condition, would serve only to prolong the process of dying. Life-sustaining treatment shall not include the administration of medication or the performance of any medical or surgical intervention deemed necessary solely to alleviate pain [RCW 70.122.020(5)].

*"Permanently Unconscious Condition"* means an incurable and irreversible condition in which the patient is medically assessed, within reasonable medical judgment, as having no reasonable probability of recovery from an irreversible coma or persistent vegetative state
"Terminal Condition" means an incurable and irreversible condition caused by injury, disease, or illness that, within reasonable medical judgment, will cause death within a reasonable period of time, in accordance with accepted medical standards and where attempts of resuscitation will serve only to prolong the process of dying [RCW 70.122.020(9)].

POLICY:

1. No EvergreenHealth employee, volunteer, attending physician, or employee of the attending physician is permitted to witness any patient's Advance Directive. Employees who have been appointed as a notary public may use their notary seal to notarize signatures (RCW 70.122.030).

2. No EvergreenHealth employee, volunteer or attending physician shall be required under any circumstances to participate in the withholding or withdrawing of life-sustaining treatment if such person objects to so doing. No such person shall be discriminated against in employment or professional privileges because of the person's participation or refusal to participate in the withholding or withdrawing of life-sustaining treatment [RCW 70.122.060(4)].

3. Staff and attending physicians may presume that the patient's Advance Directive is legally valid unless the Advance Directive has been revoked. No staff or attending physician will be liable for failing to act upon a revocation unless that person has knowledge of the revocation (RCW 70.122.040).

RESPONSIBILITY:

EvergreenHealth staff from several departments has important roles in implementing this policy. Listed below are summaries of departmental responsibilities. For more information see the appropriate departmental procedure as cited.

<table>
<thead>
<tr>
<th>DEPARTMENT RESPONSIBLE:</th>
<th>RESPONSIBILITY/ACTION:</th>
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<tbody>
<tr>
<td>Patient Registration</td>
<td>Registration personnel are frequently the patient's first point of contact with an EvergreenHealth facility or service. Generally, registration personnel have the following responsibilities:</td>
</tr>
<tr>
<td></td>
<td>- Determine if the patient has executed an Advance Directive.</td>
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<td>- Note in Cerner whether the patient has an Advance Directive and whether EvergreenHealth has a copy.</td>
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<td>- Offer information to each patient regarding rights and</td>
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how to create an Advance Directive.

- Make copies of Advance Directives and route to appropriate staff and facilities.
- Refer to Social Services those patients expressing interest in establishing an Advance Directive.

See Patient Registration Procedure "Implementing EvergreenHealth Policy on Advance Directives".

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<tr>
<th>Care Management Social Workers</th>
<th>Care Management Social Workers provide information to those patients expressing interest in establishing Advance Directives, including information as to where copies of Advance Directive forms may be obtained. Social workers may refer interested patients to their attending physician, Pastoral Care, their own legal counsel, or other appropriate physicians or personnel for additional information to reach a decision on this matter. See also Care Management Department Procedure &quot;Implementing EvergreenHealth Policy on Advance Directives.&quot;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nursing</td>
<td>Nursing personnel and Health Unit Coordinators are responsible for notifying appropriate staff and physicians regarding the patient's Advanced Directive. As caregivers, nursing personnel also have important roles in ensuring that patients' Advance Directives are implemented. For a detailed list of responsibilities on nursing personnel and Health Unit Coordinators, see Nursing policy 704 &quot;Advance Directives.&quot;</td>
</tr>
</tbody>
</table>
| Attending Physician | The attending physician's role is crucial to successful implementation of EvergreenHealth's policy on advance directives:
- All attending and primary care physicians are encouraged to raise the issue of Advance Directives with each adult patient at any opportunity (including office visits), preferably when the patient is healthy.
- Attending and primary care physicians are encouraged to provide information to those patients expressing interest in establishing Advance Directives, including information as to where they may obtain copies of the brochure "Who will decide if you can't." This brochure includes forms for both a Living Will and a Durable Power of Attorney for Health Care.
- Each time the physician asks a patient to sign an Informed Consent, the physician is encouraged to ask
the patient if he or she has an Advance Directive or would like to discuss establishing an Advance Directive.

- Attending physicians will refer interested patients to Social Services, Pastoral Care, their own legal counsel, or other appropriate physicians or personnel for the purpose of establishing an Advance Directive.

- Attending physicians will honor the patient's revocation of his or her Advance Directive, document the revocation, and notify appropriate EvergreenHealth personnel.

**When the patient's Advance Directive conflicts with the physician or EvergreenHealth's policies:**

- The attending physician shall inform a patient or his or her surrogate decision-maker of the existence of any policy or practice of the physician or EvergreenHealth that would preclude the honoring of the patient's Advance Directive. If the patient chooses to retain the physician or remain at EvergreenHealth, the physician shall prepare a written plan to be filed with the patient's Advance Directive that sets forth the physician's or EvergreenHealth’s intended actions should the patient's medical status change so that the Advance Directive would become operative.

- The physician and/or EvergreenHealth have no obligation to honor the patient's Advance Directive if they have complied with this notification (RCW 70.122.060).

### Health Information Management (HIM)

HIM personnel shall scan the patient's Advance Directive in the Advance Directive portion of the electronic medical record. If the patient has revoked his/her Advance Directive, HIM personnel shall add the copy of the revocation statement, if signed, to the permanent record.

**CROSS REFERENCES OF POLICIES AND PROCEDURES IMPLEMENTING EVERGREENHEALTH POLICY ON ADVANCE DIRECTIVES:**

For further information, refer to specific policies and procedures in the following divisions/departments:

- Nursing
- Care Management
• Evergreen Home Health and Hospice
• Patient Registration
• Mental Health Services

Other related organizational policies:
• Organ/Tissue Donation (Patient Services 728.19)
• Do Not Attempt Resuscitation ("DNAR") (ADM A1)
• Withdrawing Life-Sustaining Treatment (ADM A)
• Informed Consent on Behalf of Incapacitated Patients (ADM 106.1)
• Ethics Committee (ADM 158.1)
• Patient Rights and Responsibilities (ADM 132)
• Guardian Ad Litem (ADM 152.2)
• Physician Orders for Life-Sustaining Treatment (ADM 157.1)
PHILOSOPHY OF EVERGREENHEALTH:

King County Public Hospital District No. 2 d/b/a EvergreenHealth (“EvergreenHealth”) is committed to preserving life and relieving suffering. When there is a conflict between these two objectives, treatment decisions made by the patient, or his or her surrogate decision-maker (if the patient is legally incapacitated), should be given respectful consideration. In the absence of the patient’s decision or that of his or her authorized surrogate decision-maker, EvergreenHealth shall act in the best interest of the patient in its reasonable judgment.

For patients who are terminally ill or permanently unconscious, it is not unethical to withdraw life-sustaining treatment. For humane reasons, with informed consent, the physician may cease or omit treatment to permit terminally ill or permanently unconscious patients to die a natural death. The dignity of the patient should be maintained at all times.

The decision to withdraw life-sustaining treatment should be made independently of and prior to any discussion of organ and/or tissue donation initiated by the staff of EvergreenHealth.

The purpose of this policy and the Non-beneficial Care Decision-making Guidelines is to assist EvergreenHealth healthcare providers in making difficult decisions regarding the withdrawal or withholding of life-sustaining treatment or non-beneficial care in certain clinical conditions or circumstances. Each decision must be made on a case-by-case basis and with compassion and reason. This policy and guidelines are not intended to conflict with the ethics, values or standards of healthcare providers and patients, but rather to serve as guidelines for the decision-making process and to outline the documentation required in establishing orders to withhold or withdraw medical treatment.

PATIENT REFUSAL OF LIFE-SUSTAINING TREATMENT

1. Under most circumstances, all adult persons have the right to refuse medical treatment including life-sustaining treatment, so long as, but not necessarily limited to, one or more of the following events has occurred:
   - The patient has directed so in his or her Advance Directives (Living Will, Health Care Power of Attorney, Physician Orders for Life-Sustaining Treatments (“POLST”) or similar legal document). (See Administrative Policy, Advance Directives);
   - The patient is in a terminal condition;
   - The patient is in a permanently unconscious condition;
• There is a request by the family/surrogate decision-maker in consultation with the physician;
• There is prior court authorization; and/or
• There is evidence the patient would likely remain dependent upon life-support equipment to sustain life.

2. The patient's **capacity** to make healthcare decisions does not affect his or her right to refuse medical intervention. However, the patient's capacity does affect how EvergreenHealth will assess and implement such refusals. An incapacitated patient must exercise his or her right through an Advance Directive, a legally-authorized surrogate decision-maker, or a Guardian Ad Litem.

• "Capacity" is determined in accordance with the EvergreenHealth Policy on Incapacitated Patients. (See Administrative Policy, "Informed Consent on Behalf of Incapacitated Patients").

• For incapacitated patients, a surrogate decision-maker or a Guardian Ad Litem assumes decision-making capacity. (See Administrative Policies, "Informed Consent on Behalf of Incapacitated Patients"; and "Guardian Ad Litem").

**SURROGATE DECISION-MAKER**

By state law, persons authorized to provide informed consent to healthcare on behalf of an incapacitated patient are in the following classes, in the following order of priority:

• The court-appointed guardian, if any.
• The patient's representative as named in the patient's Durable Power of Attorney for Healthcare Decisions. (See Administrative Policy, "Advance Directives")
• The patient's spouse or registered domestic partner.
• The patient's children who are at least 18 years of age.
• The patient's parents.
• The patient's adult siblings.

The physician must make reasonable efforts to locate and secure authorization from the person available in the highest class. However, no person may provide informed consent to healthcare decisions if:

• a person in a higher class has refused to give authorization for the decision; and
• the decision is not unanimous among all persons in the class.

**Exception:** If the patient is pregnant, but she or her surrogate decision-maker wishes to exercise the patient's right to refuse life-sustaining treatment, the attending physician should inform EvergreenHealth Administration, who will consult with legal counsel and the Ethics Committee as to the request of the patient or her surrogate decision-maker. No order shall be written to withhold or withdraw life-sustaining treatment from a pregnant person until legal counsel has been consulted.
INFORMING THE PATIENT'S DECISION-MAKER

Before the patient's surrogate decision-maker makes his or her decision, the attending physician must:

- Fully explain the patient's condition, prognosis, and expected level of function to the patient and/or the surrogate decision-maker.
- Thoroughly discuss the risk and limits of the treatment that might be withdrawn.
- Describe the effect withdrawing treatment might have on the patient.

WITHDRAWAL OR WITHHOLDING OF NON-BENEFICIAL CARE

Occasionally differences of opinion may arise between the provider/physician and the patient/surrogate decision-maker regarding end-of-life care. Patients have the right to request or refuse medically necessary treatment, but EvergreenHealth and its providers are not obligated to provide care that is non-beneficial or futile. In these situations, please refer to the Non-beneficial Care Decision-making Guidelines for additional assistance, especially in circumstances where the physician initiates the discussion of withdrawing non-beneficial care.

DOCUMENTING THE DECISION-MAKING PROCESS

The attending physician and consulting physician(s) shall document in the patient's chart the process by which the decision was reached to withdraw or withhold life-sustaining treatment or non-beneficial care (See also Administrative policy, Determination of Brain/Cardiac Death).

The progress notes in the chart should include, but not necessarily be limited to, the following:

- Assessment of the patient's medical condition.
- A summary of conversations with the patient and/or surrogate decision-maker to fully inform them of the patient's condition and the consequences of withdrawing life-sustaining treatment and a list of the individuals present during those conversations.

WRITING THE ORDER TO WITHDRAW LIFE-SUSTAINING TREATMENT:

- Once the decision has been made to discontinue life-sustaining support, the attending physician will complete the Code Status Order Sheet.
- The attending physician will also write the order to withdraw life-sustaining treatment, being as specific as possible, as to what treatments apply to the order (i.e., feeding tube, vasopressor and/or inotropic drugs, intra-aortic balloon pump, ventricular assist device, ventilator, or all life-sustaining treatments).
• The patient's status as to life-sustaining treatment is reviewed by the attending physician when indicated by a change in prognosis and/or expressed wishes of the patient/surrogate decision-maker.

REFERENCES:
• The Interpretation (Amendment ) Act, 1998, Section 2A.
• Determination and Certification of Death Regulations, 1998 (Subsidiary Legislation).
• Natural Death Act: RCW 70.122, 1998