Advance Care Planning and End-of-Life Policy Quiz

Prepared by the Palliative Care Network of Wisconsin (PCNOW) (www.mypcnow.org)

Introduction

Clinicians are confused about the rules, protections, and responsibilities concerning state-approved advance directive forms, state regulations, and hospital policies concerning withholding/withdrawing life sustaining treatments, DNR/DNI orders and related topics. http://www.mypcnow.org/#!Clinician-confusion-The-mess-of-advance-care-and-endoflife-planning/c1y2u/5714c0b30cf28d4bbf4c7106). PCNOW has recommended three steps for all hospitals to take to help reduce this confusion:

Step 1. Each hospital should develop a *Guide to Advance Directives and End-of-Life Decisions*, as a collaborative process between key stakeholders. The guide should include copies of advance directives promoted by the hospital, relevant state laws, key hospital policies, and a FAQ section to answer common questions. The Guide should be reviewed/updated annually.

Step 2. Each hospital should develop a testing process to assess clinician knowledge.

Step 3. Quality Improvement activities should be developed to track compliance with hospital polices.

To facilitate Step 2, PCNOW has developed a generic 10 item-quiz that can be used in all 50 states to a) assess clinician knowledge of relevant state laws and hospital policies and b) serve as a springboard for educating clinicians. Suggestions for using this quiz include:

- New orientation for all new clinician hires
- Include as part of the clinician credentialing and re-credentialing process
- Use in a clinician training session on advance care planning/medical ethics

Note: In preparation to use the test, you must first assemble the relevant state-approved advance care planning documents and hospital policies and be familiar with applicable state laws.

Adaptations: users are free to adapt/add additional questions relevant to their state or local policies, e.g. (POLST).

Feedback: Please send feedback/comments to PCNOW at: wiscpallcare@gmail.com

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Advance Care Planning and End-of-Life Policy Quiz

(Generic Template—Adapt to your state/hospital)

1. Which one of the following is <u>NOT</u> required for a patient to possess *decision-making capacity*:

a) Able to reason, to weigh treatment options
b) Can express a choice among treatment options
c) Is oriented to person, place and time
d) Understands the significance of information relative to personal circumstances

2. _____ (Insert your state) has a "surrogacy law" that defines the legal order of decision makers if a patient has lost decision-making capacity.

__ True ___False

3. In _____ *(insert your state),* If a patient is unable to make their own medical decisions, who can legally make decisions and in what order?

First: _____
Second: _____
Third: _____
Fourth: _____

4. In _____ (insert your state), who must evaluate and attest in writing, that the patient has lost decision making capacity, in order to activate a Power of Attorney for Health Care designating an Agent (or surrogate (proxy)) as the decision-maker?

Write answer here:

5. A patient lost decision-making capacity and the surrogate decision maker was activated. Now the patient has regained decision-making capacity. What is the procedure in your hospital to de-activate the designated agent (or surrogate (proxy)) decision maker?

Write answer here:

6. Which one of the following statements is <u>True</u>:

a) A patient's written wishes in a legal advance care planning directive are advisory only; the clinician may choose another clinical course if he/she believes it is in the patient's *best interest*.
b) Legally designated and activated surrogate (proxy) decision makers have the legal right to over-rule specific wishes written by a patient.
c) Clinicians are generally obligated to follow patient wishes in an advance care planning document.

7. A patient is dying an expected death from chronic liver disease; you think the patient has hours to a few days to live. The patient is non-decisional with no advance care planning document. The family refuses to agree to a DNR order and insists that you perform CPR. Which one of the following is true <u>in your hospital</u>?

a) Under my hospital policy, CPR must be started.
b) A DNR order may be written against patient or family wishes under certain circumstances outlined in hospital policy.
c) There is no policy at my hospital to address this situation.
d) Other: _____

8. In _____ (insert your state) there is a state *Futility Policy* that allows a clinician to decline providing a potentially life sustaining treatment if they believe it to be of no benefit:

__True __False

9. My hospital has a *Futility Policy* that allows a clinician to decline providing a potentially life sustaining treatment if they believe it to be of no benefit:

__True __False

10. _____ (Insert your state) has a system so that Emergency Medical Providers (EMS) will withhold resuscitation for out-of-hospital cardiac arrest in seriously ill patients. (e.g. wristband, or other state approved system to inform EMS).

__True __False

Advance Care Planning and End-of-Life Policy Test

(Answers)

1. Which one of the following is <u>NOT</u> required for a patient to possess *decision-making capacity*:

a) Able to reason, to weigh treatment options
b) Can express a choice among treatment options
c) Is oriented to person, place and time
d) Understands the significance of information relative to personal circumstances

Answer: c
The three criteria patients must meet to demonstrate decision making capacity include:

- **Understand** the information (e.g. be able to relate what they have been told and what it means)
- Ability to make a rational **Evaluation** of the burdens, risks, benefits, and alternatives to the proposed health care
- **Communicate** a choice (implies ability to communicate)

Further Reading: Fast Fact #55 Decision Making Capacity http://www.mypcnow.org/#!blank/v7dyv

2. ___ (Insert your state) has a "surrogacy law" that defines the legal order of decision makers if a patient has lost decision-making capacity.

__True __False

Answer: Check with your ethics committee.

3. In _____ *(insert your state)* If a patient is unable to make their own medical decisions, who can legally make decisions and in what order:

Answer: the answer depends on your state; the order of decision making is generally 1) the agent (ie. surrogate (proxy) decision maker) indicated on a Power of Attorney for Health Care document, 2) if no Power of Attorney for Health Care, a surrogate decision maker specified by statutes (the majority of states have a health care "surrogacy law" which specifies, hierarchy of decisions makers (e.g. spouse, adult children, parents, etc.). 3) a legal guardian (In some states, guardians take precedence over health care agents). If neither a surrogate nor legal guardian exist, clinicians should seek family (and/or close friend, if relevant) consensus to make medical decisions. If consensus is impossible, it is best to seek the input of the person who would likely be appointed as guardian for the patient. If there is no family or close friend, clinicians should act in the patient's best interest, while seeking a decision maker, which may include seeking a guardian or consulting with an ethics committee.

4. In ___ (insert your state), who must evaluate and attest in writing that the patient has lost decision making capacity in order to activate a Power of Attorney for Health Care designating an Agent (or surrogate (proxy)) decision-maker)?

Answer: Check with your ethics committee or case management department for the answer.

5. A patient lost decision-making capacity and the surrogate decision maker was activated. Now the patient has regained decision-making capacity. What is the procedure in your hospital to de-activate the designated agent (or surrogate (proxy)) decision maker?

Answer: Check with your ethics committee or case management department for the answer.

6. Which one of the following statements is true:

a) A patient's written wishes in a legal advance care planning directive are advisory only; the clinician may choose another clinical course if he/she believes it is in the patient's *best interest*.
b) Legally designated surrogate (proxy) decision makers have the legal right to over-rule specific wishes written by a patient.
c) Clinicians are generally obligated to follow patient wishes in an advance care planning document.

Answer: c. Patient written wishes, when refusing treatment, or requesting medically appropriate treatment, are not advisory to clinicians and proxy decision makers do not have the right to over-rule patient specific wishes. Medical providers cannot treat an individual against his or her wishes that were expressed when the patient had decisional capacity to refuse that treatment. However, clinicians are not obligated to pursue a clinical course of treatment that she or he finds, in good conscience, ethically or clinically objectionable or when the directions are vague, e.g. "do everything". **See below for further details.**

7. A patient is dying an expected death from chronic liver disease; you think the patient has hours to a few days to live. The patient is non-decisional with no advance care planning document. The family refuses to agree to a DNR order and insists that you perform CPR. Which one of the following is true <u>in your hospital</u>?

a) Under my hospital policy, CPR must be started.
b) A DNR order may be written against patient or family wishes under certain circumstances outlined in hospital policy.
c) There is no policy at my hospital to address this situation.
d) Other: _____

Answer: Check with your ethics committee/medical staff office for the answer.

8. In ___ (insert your state) there is a state *Futility Policy* that allows a clinician to decline providing a potentially life sustaining treatment if they believe it to be of no benefit:

__True __False

Answer: Check with your ethics committee for the answer.

9. My hospital has a *Futility Policy* that allows a clinician to decline providing a potentially life sustaining treatment if they believe it to be of no benefit:

__True __False

Answer: Check with your ethics committee/medical staff office for the answer.

10. _____ (Insert your state) has a system so that Emergency Medical Providers (EMS) will withhold resuscitation for out-of-hospital cardiac arrest in seriously ill patients. (e.g. wristband, or other state approved form or other system to inform EMS).

__True __False

Answer: Check with your ethics committee/case management department for the answer.

OTHER RESOURCES

AMA Futility Policy:
http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion2037.page

AMA DNR Policy:
http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion222.page?

Hospital Futility Policy example
http://www.mypcnow.org/#!copy-network-resources/cxyl
Go to: Clinical Tools/Futility Policy

Note: You will need to be a registered PCNOW user (free registration) to view this policy. Join at: http://www.mypcnow.org/#!join/c17vk

PCNOW Fast Facts Ethics Core Curriculum
http://www.mypcnow.org/#!core-curriculum/vdw7n

POLST: Physicians Orders on Life Sustaining Treatment (POLST) forms, recognized in many states, can provide vital information on resuscitation status, among other directions to EMS

FURTHER INFORMATION-QUESTION 6.

***ABA Commission on Legal Problems of the Elderly 10 Legal Myths About Advance Medical Directives* by Charles P. Sabatino, J.D**
http://ruralinstitute.umt.edu/transition/Handouts/10LegalMyths.pdf

Myth #8: Doctors and other health care providers are not legally obligated to follow my Advance Directive.

"Legally false, but as in many endeavors, reality muddies the waters. As a matter of law, it is clear that medical providers cannot treat an individual against his or her wishes. Consequently, if a physician acts contrary to a patient's clear instruction directive or contrary to the decision of the patient's authorized proxy, the physician risks the same liability he or she would face if the physician were to ignore a refusal of treatment by a fully competent patient. Treatment would constitute a battery. However, a few factors complicate the situation. First, the doctor or health facility sometimes do not know about the existence of an advance directive. While federal law requires hospitals, nursing homes, and home health agencies to ask about and to document your Advance Directive, the document often does not make it into the appropriate record. It is up to the patient and those close to the patient to ensure that everyone who might need a copy of the directive in fact has a copy. Second, as noted earlier, people often do not express their wishes very clearly or precisely in advance directives. Simply using general language that rejects 'heroic measures' or 'treatment that only prolongs the

dying process' does not give much guidance. Therefore, interpretation problems may arise. Giving an agent (proxy) broad authority to interpret one's wishes will help avoid this problem, except that sometimes proxies themselves are not quite sure what the patient would want done. This fact underscores the importance of discussing one's wishes and values with the intended proxy. Third, in most states, if a physician or facility objects to an Advance Directive based on reasons of conscience, state law permits the physician or facility to refuse to honor it. However, facilities must notify the patient of their policies regarding advance directives at the time of admission. If a refusal occurs, the physician and facility should provide assistance in transferring the patient to a provider that will comply with the directive. Fourth, persons who are dying, but living in the community, may face problems in having an advance directive followed if a crisis occurs and emergency medical services (EMS) are called (for example, by calling '911'). EMS personnel are generally required to resuscitate and stabilize patients until they are brought safely to a hospital. States are beginning to address this situation by creating procedures that allow EMS personnel to refrain from resuscitating terminally ill patients who are certified as having a 'do not resuscitate order' and who have an approved identifier (such as a special bracelet)."