DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: CLIENT PARTICIPATION IN MEDICAL TREATMENT AND ADVANCE DIRECTIVES — POLICY 9.01

Authority: RCW 7.70.065, 70.122
Chapter 388-81-017 WAC
Patient Self-Determination Act, 1990
Omnibus Budget Reconciliation Act, 1990
DDD Policies 5.06, 7.03

PURPOSE

Persons with developmental disabilities, like all other citizens, have a legal right to make decisions concerning their medical care, to accept or refuse surgical or medical treatment, and to formulate Advance Directives.

SCOPE

This policy applies to community ICF/MRs and Residential Habilitation Centers (RHCs).

POLICY

Individuals living in community ICF/MRs and RHCs shall receive routine and emergency health services and other rehabilitative services appropriate to their needs and consistent with the expressed preferences of each individual or their surrogates if the individual is not able to advocate on their own behalf.

As a means of protecting their legal rights and ensuring a person's participation in the decision making regarding their medical care and treatment, community ICF/MRs and RHCs shall:

A. Provide written information to clients at the time of admission concerning a person's right under law (whether statutory or as recognized by courts of the state) to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate Advance Directives;

B. Maintain written policies and procedures with respect to Advance Directives (e.g., living wills and health care powers of attorney) and provide written information to clients about such policies;

C. Document in the person's medical record whether or not the person has executed an Advance Directive;

D. Ensure compliance with the requirements of law (whether statutory or as recognized by the courts of the State) respecting Advance Directives at facilities of the provider or organization;

E. Provide (individually or with others) for education for staff and the community on issues concerning Advance Directives; and

F. Not condition the provision of care or otherwise discriminate against a person based on whether the individual has executed an Advance Directive.

DEFINITIONS

A. "**Advance directive**" means a general term for a variety of documents that indicate a person's wishes with regard to treatment in the event that the individual becomes incapacitated and is unable to make decisions regarding their care.

B. "Anatomical gift" means a directive in a will, donor care, or other document that specifies which parts of a person's body may be used, after their death, for transplantation or research purposes.

C. "**Cardiopulmonary resuscitation (CPR)**" means the process of keeping the heart pumping and the blood oxygenated through external means, including chest compressions, electric shock, injection of drugs into the heart; and artificial

breathing.

D. "**Code/no code**" means an order entered in a person's medical record telling whether or not to initiate CPR in the event the person is found with his/her heart not beating. Unless a person, or a surrogate of the individual, decides otherwise health care providers are required to initiate CPR in all cases when a person's heart stops.

E. "**Community**" means (for the purpose of advance directive) the surrogates of residents, their guardians, their family member and other persons concerned about individual clients.

F. "**DNR**" means "do not resuscitate." Same as a "No Code" order.

G. "**Durable power of attorney**" means a document that appoints another person to make decisions for someone else. Most Durable Power of Attorney for health care only take effect when a person has lost the ability to make their own decisions because of illness or injury, but this will depend on how the document is written. The person to whom is given the Power of Attorney is called the "attorney in fact" or "the agent." A Durable Power of Attorney may not be executed by a surrogate.

H. "**Guardianship**" means a legal proceeding in which a judge appoints someone to make certain decisions for another person who is incapable of making their own decisions, or cannot do so responsibly. This frequently is used to resolve disputes about with drawing treatment where an advance directive has not been executed.

I. "**Informed consent**" means an agreement by a person to accept treatment with an understanding of the risks and benefits involved. If a person is not competent to give informed consent for health care, other persons as defined in RCW 7.70.065 may provide informed consent on the individual's behalf.

J. "**Living will**" means a common term for a "Directive to Physicians." This is a document which instructs physicians that in the event a person becomes terminally ill and further treatment will only delay the moment of death, that artificial life support can be removed so the individual can die naturally. A living will may not be executed by a surrogate.

PROCEDURES

A. All adult residents of community ICF/MRs and RHCs will be advised of their right to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate Advance Directives.

B. When a person is admitted into a community ICF/MR or an RHC, facility administrators shall:

1. Provide written information concerning a person's right to participate in the decision making regarding their medical care and treatment, to formulate Advance Directives, and the facility's policies concerning implementation of these rights to:

    a. The individual;

    b. The individual's legal guardian; or

    c. If there is no guardian and the individual is not able to understand the written information, the individual's surrogates, family, or other concerned persons.

2. Document in the individual's medical record whether or not the individual has executed an Advance Directive.

3. Ensure compliance with the requirements of law respecting Advance Directives.

    a. If the individual is incapacitated at the time of admission but later becomes capable of making decisions about their medical care and treatment, the individual at that time must be informed about their rights as specified in A. above.

    b. If the individual at the time of admission is unable to state if an Advance Directive exists, and if no one else can provide a copy of the individual's Advance Directive, an entry will be made in the medical record of that individual which shall state that the individual could not receive the information regarding their rights, and could not communicate whether an Advance Directive exists.

c. If the individual's surrogates, family, or other concerned parties present the admitting facility with a copy of the individual's Advance Directive which may include a copy of a Durable Power of Attorney for health care or a living will, the facility must abide by the Advance Directive or the decisions of the "the agent" to the extent permissible under current state law.

d. If the individual's physician objects to the Advance Directive of that individual on the basis of conscience, the physician shall make a good faith effort to find another physician who will implement the individual's Advance Directive.

C. Facilities will educate the community (as defined) and their employees on issues concerning Advance Directives, and the right of clients to participate in the decision making regarding their care and treatment. New employees will be educated during their orientation periods, and client surrogates and others will be educated at the time of the person's admission into a community ICF/MR or an RHC.

SUPERSESSION

Division Policy Directive 9.01
Issued October 8, 1992

Division Policy Directive 330.6
Issued December 17, 1991

Approved: /s/ *Norm Davis* Date: 2/14/1994
Director, Division of Developmental Disabilities