

TITLE

DISPUTE PREVENTION AND RESOLUTION IN CLINICAL SETTINGS**SCOPE**

Provincial

DOCUMENT

PRR-03

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Clinical Operations Executive Committee

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Vice President & Medical Director, Central & Southern Alberta

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Not applicable

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January 9, 2023

NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

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OBJECTIVES

- To provide direction in preventing and resolving **disputes** between **health care professionals** and **patients / alternate decision-makers** when clinical situations occur regarding whether treatments/interventions are in the patient's best interests, harmful, futile or not clinically indicated.
- To provide direction in preventing and resolving disputes between health care professionals and patients / alternate decision-makers when clinical situations occur regarding the provision, withdrawal or withholding of treatment or other interventions in Critical Care services.
- To facilitate a respectful, transparent, culturally sensitive and consistent dispute resolution process.
- To identify the various individuals and/or programs who could be involved in supporting the health care team to respond when a dispute has occurred, and further outline methods for supporting **health care providers**, patients and **families** throughout the dispute resolution process.

PRINCIPLES

This Policy will be followed in the spirit of, and with a commitment to, the following principles:

- **Respect for Patient Autonomy:** Individuals should be provided the opportunity to make choices whether to consent to or refuse health care offered, in light of their own preferences, values and beliefs, and ought to be offered appropriate information to be able to make such choices.

- Respect: Patients should be treated with dignity, understanding, openness and with an appreciation for their preferences and values. The principle of respect also applies to health care providers and administrators, who have an obligation to treat others, including each other, respectfully, even when they disagree.
- Promotion of Patient Well-being: Provision of care should be based on the goal of promoting the health of patients in the broad sense, including their physical, mental, social, psychological, cultural and spiritual needs.
- Prevention of Harm: Health care providers strive to prevent unnecessary and avoidable harm to patients resulting from the delivery of health care services.
- Cultural Safety and Respect for Diversity: Health care providers are expected to engage with all people as individuals in a culturally safe and respectful way, and to foster open, honest and compassionate professional relationships.
- Promoting Clear Communication and Transparency: Alberta Health Services (AHS) operates in a way that creates openness between patients, families and health care providers in compliance with the AHS *Privacy Protection and Information Access Policy*. When lines of communication are open and communication is encouraged, honesty, understanding and common ground are easier to achieve.
- Compassion: Difficult health care decisions may be very distressing for patients, families and health care providers alike. AHS supports and treats all stakeholders with empathy and thoughtfulness.
- Support for Health Care Teams: AHS will respect, value and support the health care team.

APPLICABILITY

Compliance with this document is required by all Alberta Health Services employees, members of the medical and midwifery staffs, Students, Volunteers, and other persons acting on behalf of Alberta Health Services (including contracted service providers as necessary).

ELEMENTS

1. Points of Emphasis

- 1.1 Health care professionals working with patients receiving Critical Care services shall follow this Policy.
- 1.2 Disputes may arise for patients not receiving Critical Care services. In those instances, it is recommended that health care professionals follow parts or all of this Policy in consultation with:
 - a) **accountable leaders**, such as operational site and medical leaders (e.g., Executive Director, Senior Operating Officer, Facility Medical Director);
 - b) the AHS Health Law Team, as applicable; and

- c) Critical Care services, as applicable and available.

2. Support for Patients and Families

- 2.1 Dispute resolution shall reflect patient-centred care and family support through:
- a) understanding the diverse values and beliefs of patients and families to help inform and guide the provision of care;
 - b) providing patients / alternate decision-makers with appropriate information taking into consideration their needs, preferences and which phase of the *AHS Dispute Prevention and Resolution in Clinical Settings Procedure* is being navigated. For example, advising families they are entitled to seek legal counsel when in the dispute resolution (red) phase;
 - c) being inclusive, by involving patients / alternate decision-makers in decision-making; and
 - d) ensuring patients / alternate decision-makers and families are supported throughout the process.

3. Support for Health Care Professionals

- 3.1 It is recognized that disagreements with patients, their families or alternate decision-maker(s) regarding critical care decisions or other disputes can be extremely stressful and difficult for the **most responsible health practitioner (MRHP)**, as well as the entire health care team.
- 3.2 Decisions with respect to appropriate clinical treatment options are within the scope of the MRHP providing care. Health care professionals will be supported by AHS in the provision of clinically appropriate care consistent with professional and ethical obligations.

4. Evaluation of Treatment Options

- 4.1 The anticipated benefits and harms offered by the available treatment option(s) at AHS should be evaluated within the following framework according to their degree of potential benefit (e.g., physiological, psychological, emotional, ethical, social):
- a) likely to benefit - those treatments that would result in a reasonable benefit to the patient's health;
 - b) benefit is uncertain - those treatments that, if administered, would result in an unknown or uncertain benefit to the patient's health (the subsequent prognosis or the likelihood of adverse consequences is also unknown or uncertain); or

- c) will not benefit - those treatments that, if administered, would result in no reasonable chance of benefit to the patient's health. (Such treatments are not clinically appropriate.)

5. Decision-making

- 5.1 Decision-making shall be guided by the best interests of the patient, professional codes, standards, ethical duties and AHS' mission and values.
- 5.2 Decision-making shall follow the principles of **patient- and family-centred care**.
- 5.3 In determining the appropriate care plan for the patient, there are several factors and considerations which should be taken into account, including but not limited to:
 - a) the patient's clinical condition and prognosis;
 - b) the medical treatment that is recommended; and
 - c) the wishes, values and beliefs of the patient, if they are known.
- 5.4 Engage in goals of care conversations with the patient and/or alternate decision-maker(s) earlier in their admission before crises or disagreements heighten.
- 5.5 Where appropriate and as available, the health care team may consider consulting the AHS Clinical Ethics Service.
- 5.6 Prior to advising the patient, their family or the alternate decision-maker(s) of a decision that may be contrary to the patient's wishes, the Critical Care Physician or MRHP should attempt to ensure that there is a reasonable consensus among the health care team. This will ensure that:
 - a) the patient receives consistent care;
 - b) stress and uncertainty is minimized for the patient, family or alternate decision-maker(s) when care is transitioned to subsequent health care professionals; and
 - c) processes are enacted to assist health care team members experiencing a difference of opinion or a situation of impasse (refer to the AHS *Dispute Prevention and Resolution in Clinical Settings Procedure*).

DEFINITIONS

Accountable leader means the individual who has ultimate accountability to ensure consideration and completion of the listed steps in the management of the AHS *Dispute Prevention and Resolution in Clinical Settings Policy Suite*. Responsibility for some or all of the components of management may be delegated to the appropriate level responsible administrative leader, but accountability remains at the senior level.

Alternate decision-maker means a person who is authorized to make decisions with or on behalf of the patient. These may include, specific decision-maker, a minor's legal representative, a guardian, a 'nearest relative' in accordance with the *Mental Health Act* (Alberta), or an agent in accordance with a Personal Directive, or a person designated in accordance with the *Human Tissue and Organ Donation Act* (Alberta). This also includes what was previously known as the substitute decision-maker.

Dispute means a disagreement between the patient and health care professionals regarding the provision and/or withdrawal of treatment or the undertaking of other interventions. Possible manifestations of disputes vary widely and may include: evidence of ongoing problems associated with decision-making not responsive to the usual measures to address communication issues between health care professionals and patients; patients warning that they are considering or have initiated legal proceedings; and/or, health care professionals expressing significant moral distress about patient care.

Family(-ies) means one or more individuals identified by the patient as an important support, and who the patient wishes to be included in any encounters with the health care system, including, but not limited to, family members, legal guardians, friends, and informal caregivers.

Health care professional means an individual who is a member of a regulated health discipline, as defined by the *Health Disciplines Act* (Alberta) or the *Health Professions Act* (Alberta), and who practises within scope and role.

Health care provider means any person who provides goods or services to a patient, inclusive of health care professionals, staff, students, volunteers and other persons acting on behalf of or in conjunction with Alberta Health Services.

Most responsible health practitioner (MRHP) means the health practitioner who has responsibility and accountability for the specific treatment/procedure(s) provided to a patient and who is authorized by Alberta Health Services to perform the duties required to fulfill the delivery of such a treatment/procedure(s) within the scope of their practice.

Patient means all persons, inclusive of residents and clients, who receive or have requested health care or services from Alberta Health Services and its health care providers. Patient also means, where applicable:

- a) a co-decision-maker with the person; or
- b) an alternate decision-maker on behalf of the person.

Patient- and family-centred care means care provided working in partnership with patients and families by encouraging active participation of patients and families in all aspects of care, as integral members of the patient's care and support team, and as partners in planning and improving facilities and services. Patient- and family-centred care applies to patients of all ages and to all areas of health care.

REFERENCES

- Alberta Health Services Governance Documents:
 - *Consent to Treatment/Procedure(s) Policy* (#PRR-01)
 - *Dispute Prevention and Resolution in Clinical Settings Procedure* (#PRR-03-01)

- *Medical Assistance in Dying* (#HCS-165-01)
- *Privacy Protection and Information Access Policy* (#1177)
- Non-Alberta Health Services Documents:
 - *Adult Guardianship and Trusteeship Act* (Alberta)
 - *Family Law Act* (Alberta)
 - *Human Tissue and Organ Donation Act* (Alberta)
 - *Mental Health Act* (Alberta)
 - *National Standard of Canada- Psychological Health and Safety in the Workforce*
Canadian Standards Association (2013)
 - *Principles of Patient and Family Centered Care*

VERSION HISTORY

Date	Action Taken
January 9, 2020	Revised, includes change in Title from <i>Dispute Prevention and Resolution in Critical Care Settings</i>
Click here to enter a date	Optional: Choose an item