

# IT'S YOUR CHOICE:

## *Making Decisions About Your Medical Treatment*

### **Introduction**

Thank you for choosing Capital Region Medical Center. Your needs are important to us.

This pamphlet will help you think about and understand your medical choices. We encourage you to talk with your physician and family about your wishes for medical treatment.

You may have heard about Living Wills, Health Care Directives and Durable Powers of Attorney for Health Care. These are called **Advance Directives**.

The next four pages contain a:

- Summary relating to your right to make decisions about your medical treatment now and in the future
- Summary of the policies relating to implementing your treatment choices and advance directives
- List of important questions
- Glossary

### ***Summary of Your Right to Make Decisions About Your Medical Treatment Now and in the Future***

Missouri law gives adults who are competent the right to make decisions about their medical or surgical treatment. These decisions can range from decisions about routine treatment to decisions to withdraw or withhold life-sustaining treatment, including food and water. This right to make decisions includes the right to direct future treatment by using an advance directive. An advance directive is a way you can state the type of treatment you want in the future. It only takes effect if you become unable to make your own decisions. Currently, there are three types of advance directives. They include:

#### **1. Missouri Living Will**

*Missouri Life Support Declaration Act (Chapter 456 RSMo)*

Missouri law allows a competent adult to sign a declaration permitting the withholding of “death prolonging procedures” if the adult has a terminal condition and is unable to make treatment decisions. A terminal condition is defined as a condition which is incurable and in

which death will occur within a short time, regardless of the application of medical procedures.

The act refers to the written authorization as a “Declaration.”

#### **Declaration**

- must be written, signed, dated and witnessed (unless wholly in the patient’s handwriting);
- is only valid in cases of terminal illness;
- should be part of the patient’s medical record; and
- does not allow you to direct the withholding or withdrawing of medical procedures to supply food or water.

Any person who executes a Declaration may revoke it orally, in writing, or in any other method of communication.

#### **2. Health Care Directive**

A Health Care Directive is like a Living Will. It is a declaration that allows you to give directions for your future health care, and only becomes effective if you become unable to make your own decisions.

It is more broad and covers areas not covered by the Missouri Living Will.

- a. You do not have to be terminally ill for it to become effective.
- b. It allows you to give specific directions for your care and to direct the withholding or withdrawing of medical procedures to supply food and water.
- c. It may be relied on when you are unable to communicate your decisions.
- d. It provides your physician and hospital with evidence of your wishes.

#### **3. Durable Power of Attorney For Health Care**

*(Chapter 404, RSMo, Supp. 1991)*

Missouri law allows a competent adult to designate another person to make health care and treatment decisions if and when the adult is unable to do so.

The Durable Power of Attorney for Health Care:

- must be signed by the patient, witnessed and notarized;

- becomes effective upon certification of the incapacity of an individual by two licensed physicians (unless the power of attorney document provides for a different number; but in any case, certification by at least one physician is required);
- the Durable Power of Attorney for Health Care must specifically authorize the agent to be able to withhold or withdraw food and water or this request will not be honored by a health care provider;
- may be revoked by the adult, if competent, at any time and in any manner by which he/she is able to communicate his/her intent to revoke.

## **MISSOURI CASE LAW**

### **The Cruzan Case**

#### Cruzan v. Director, Missouri Department of Health

- determined that a state has a right to require “clear and convincing evidence” that a patient would have, if competent, refused treatment; and
- established there is a constitutional basis for persons to make decisions regarding their own medical care (including the withholding or withdrawing of food and water provided by artificial means).

As applied in Missouri, the Jasper County Circuit Court in Cruzan v. Mounton

- authorized the removal of nutrition and hydration based upon clear and convincing evidence that the patient would have desired the discontinuance of life support measures.

“Clear and convincing evidence” can be established in many ways. Persons can execute a formal document developed by their attorney, can use a statutory declaration form or other printed advance directive form or can even write something out in their own words.

### ***Summary of Policies Relating to Implementing Patient Treatment Choices and Advance Directives***

Each patient will receive total life-sustaining treatment unless the physician, patient and/or family decide otherwise. Sometimes a patient’s vital organs fail. At that time, “total life-sustaining treatment” means every appropriate available treatment will be

used to sustain life.

Our patients, physicians and families are encouraged to clarify treatment options and both current and future treatment choices. The patient, or if the patient is unable to make decisions, the patient’s family, working with the physician, may decide to limit, withdraw or withhold life-sustaining treatment.

Every effort will be made to see that the patient’s and, as appropriate, the family’s choices are followed. This effort will be made for written and spoken choices that are within the law. If unable to carry out the patient’s and/or family’s wishes, we will assist in arranging a transfer to another institution.

In all cases, patient care is our highest priority. Every effort will be made to relieve suffering, to ease pain and to make the patient comfortable. No individual will be discriminated against or have care conditioned on whether the individual has executed an advance directive.

If you wish to talk further about these important issues, please call your nurse, who will arrange to have someone help you complete a Living Will, Health Care Directive or Durable Power of Attorney for Health Care.

### ***Commonly Asked Questions About Advance Directives***

#### **1. How are a Health Care Treatment Directive and Durable Power of Attorney for Health Care different from a Living Will?**

A Health Care Treatment Directive is similar to a Living Will, in that it is a signed, dated and witnessed document that allows you to state in advance your wishes regarding the use of life-prolonging procedures. The Health Care Treatment Directive does not focus exclusively on refusing treatment. You may use your Health Care Treatment Directive to state when to continue or discontinue life-prolonging treatment. It is more comprehensive than most Living Wills in that it is not restricted to use only when you are terminally ill.

The Durable Power of Attorney for Health Care allows you to name an agent (another person) to make medical decisions which you have not already covered in your Health Care Treatment Directive. This document goes into effect **WHEN AND ONLY WHEN** you lack capacity to make or to communicate decisions for yourself. You can draw up a Durable Power

of Attorney for Health Care with or without the advice of a lawyer.

## **2. Why is it useful to have both a Health Care Treatment Directive and Durable Power of Attorney for Health Care?**

Due to the complexity of illness circumstances and treatment options, situations may arise when it is not clear from your Health Care Treatment Directive what your decision in a particular situation would be. To provide for that event, when you are unable to make your own health care decisions due to incapacity, you may wish to name a person you trust to make decisions for you.

## **3. How is the Durable Power of Attorney for Health Care different from a regular power of attorney?**

Generally, powers of attorney refer to business and financial matters. A Durable Power of Attorney for Health Care more clearly allows you to name an agent to make health care treatment decisions and does not cover business or financial matters. Many people choose to name separate agents for business and health care decisions and use separate documents to do so.

## **4. Who should I name as my agent?**

It is important that you name an agent who knows your goals and values and whom you trust to act in accordance with your wishes. You might choose your spouse, an adult child or a close friend. Be sure to talk with your agent about your wishes in detail and confirm that he/she agrees to act on your behalf.

## **5. If I have already enacted a Living Will, do I need a Health Care Treatment Directive and Durable Power of Attorney for Health Care?**

The Living Will you have may not be as comprehensive as a Health Care Treatment Directive. Furthermore, your Living Will probably does not allow you to name an agent. There is clearly a benefit to being as specific as possible when making an advance directive. If you decide to enact the more comprehensive Health Care Treatment Directive and Durable Power of Attorney for Health Care, be certain you notify persons to whom you have distributed your Living Will that it is revoked and provide them with a copy of your new document(s).

## **6. How long will my advance directive be effective; may I change or revoke it?**

Your advance directive is effective until the time of your death, or unless you revoke it. You may change or revoke these documents at any time. Any alterations and any written revocations should be signed and dated and copies should be given to your family, physician and other appropriate people. Even without an official written change, your orally expressed direction to your physician generally has priority over a statement made in a Health Care Treatment Directive or Power of Attorney as long as you are able to decide for yourself and can communicate your wishes. If you wish to revoke an advance directive while you are hospitalized, you should notify your primary physician, your family and others who might need to know. If you consulted an attorney in drawing up your document, you should also notify him/her.

## **7. Will my Health Care Treatment Directive and Durable Power of Attorney for Health Care be honored if I am in another state?**

The U.S. Supreme Court has stated that all adults have the right to refuse health care treatment. If properly enacted, you should expect your advance directive to be honored in any state.

## **8. Must my physician, agent and institution carry out my wishes expressed in my Health Care Treatment Directive?**

Yes. Health care providers and your agent are generally obligated to honor your wishes as expressed in your advance directive, as long as directions you have made comply with state law. Any provider who will not honor your Health Care Treatment Directive or decisions made by your agent is obligated to assist in arranging your transfer to a provider who will honor your advance directive.

## **9. Can my Health Care Treatment Directive or decisions made by my agent be overridden by other family members or friends?**

No. If you have designated an agent, only he/she has the legal authority to make health care decisions for you when you are unable to do so. However, your agent may wish to obtain additional information from others to assist him/her in making decisions.

## **10. Will my Health Care Treatment Directive be honored in an emergency situation?**

The Health Care Treatment Directive clearly states that, if it is uncertain whether or not a treatment will “lead to a significant recovery,” it will be tried for a reasonable period of time. Since, in an emergency situation, it may be impossible for health providers to make this judgment, you should assume that treatment will be tried until it proves to be futile. If treatment does not lead to a significant recovery, your advance directive will be honored, and treatment which has proven futile will be withdrawn.

### ***Glossary***

**Artificially Supplied Hydration and Nutrition:** Method of delivering food and water through a tube to a person who is unable to eat or drink. A tube is inserted directly into the stomach or through the nose into the stomach or into a vein in the arm or hand.

**Brain Death:** When all brain activity stops, a person is considered legally dead. People cannot recover from brain death, even though other parts of their bodies may work for a short time.

**Chemotherapy:** Treatment by use of chemical substances.

**Dialysis:** An artificial-kidney technique that supports a person during kidney failure. The kidneys eliminate waste products and keep the body in chemical balance. Kidney failure can either be temporary or permanent. In either case, dialysis can help sustain life until the kidneys begin to function or it is determined that a transplant or ongoing dialysis is needed.

**DNR (Do Not Resuscitate):** A medical order to refrain from heart-lung resuscitation if a person’s heart stops beating. Good medical practice and the policies of most facilities require that CPR (cardiopulmonary resuscitation) be started, unless there is an order to the contrary in the patient’s chart.

**Heart-Lung Resuscitation (CPR):** If a person’s heart stops beating (cardiac arrest), the person will die within a few minutes unless immediate action is taken. Heart-Lung Resuscitation was developed to help the heart begin to function again. It generally consists of external heart massage, artificial-breathing techniques, medication and electrical shocks to the heart.

**Life-Sustaining Treatment:** Life-sustaining treatment may include, but is not limited to, admission to a critical-care unit, heart-lung resuscitation (CPR), the use of a mechanical ventilator, the use of certain drugs, dialysis, chemotherapy, radiation therapy, surgery, artificially supplied hydration and nutrition (food and water) and the use of blood and blood products.

**Mechanical Ventilator (Respirator):** Machines that assist or control a person’s breathing. Ventilators help a person breathe through a tube placed into the lungs. This breathing tube may pass through a person’s nose or mouth. In some cases, a small hole is made in the neck for the breathing tube.

**Radiation Therapy:** Treatment by use of x-rays or other forms of radiation.

### ***Your Right: Communication***

Your right to enact an advance directive has been legally supported by the U.S. Supreme Court; however, the greatest benefit of your advance directive is its power as a communication tool. Ask your doctor to discuss the advance directive with you; also, make your wishes known to family, friends and clergy.

If you wish to complete an advance directive document, the Social Work Department will assist you.

Federal law requires that we provide you with the information in the previous pages.