Catholic Health Initiatives
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Perceived Problem		Pertinent Principle/Ethical and Religious Directives for Catholic Health Care Services	Legal Provision (California Example)
1.	Patient's decision making capability being questioned / challenged.	Patient is presumed to have decision-making capacity unless clear and convincing facts indicate it is lacking, as determined by the patient's attending physician.	A patient is presumed to have the capacity to make a health care decision, to give or revoke an advance directive, and to designate or disqualify a surrogate. Probate Code ∋4657
2.	Patient not receiving adequate information for informed consent.	Each person has the moral right to information needed to make informed decisions about his or her life and health. **Free and informed consent requires that the person or the person's surrogate receive all reasonable information about the essential nature of the proposed treatment and its benefits; its risks, side-effects, consequences, and cost; and any reasonable and morally legitimate alternatives, including no treatment at all. #27**	Every competent adult has the fundamental right of self-determination over his or her body and property. Individuals who are unable to exercise this right, such as minors and incompetent adults, have the right to be represented by another who will protect their interests and preserve their basic rights. *Cobbs v. Grant*, 8 Cal.3d 229 (1972); Probate Code ∋∋4600-4805.
3.	Patient being misled or deceived about treatment alternatives, risks, foreseen suffering, probable functional outcome OR patient being pressured by others into making a decision.	The primary responsibility of healthcare professionals in the process of reaching decisions about treatment is to provide the patient or surrogate with sufficient medical information and adequate psychological-social-spiritual support to enable a free and informed choice. **Directive #27 as above. Also:** **While every person is obliged to use ordinary means to preserve his or her health, no person should be obliged to submit to a health care procedure that the person has judged, with free and informed conscience, not to provide a reasonable hope of benefit without imposing excessive risks and burdens on the patient or excessive expense to family or community. #32**	In order to give "informed consent" the patient must be informed of the nature of the procedure; the risks, complications, and expected benefits or effects of the procedure; and any alternatives to the treatment and their risks and benefits. *Cobbs v. Grant*, supra.

4.	Patient's choice being disregarded / overridden	Each patient is the primary decision-maker for his or her treatment. In no case may family members or healthcare professionals override the ethically appropriate decision of a patient who has decision-making capacity. **Each person or the person's surrogate should have access to medical and moral information and counseling so as to be able to form his or her conscience. The free and informed health care decision of the person or the person's surrogate is to be followed so long as it does not contradict Catholic principles. #28**	An adult with capacity has the right to make his or her own health care decisions. Probate Code ∋4670.
5.	Patient requests to forgo life-sustaining treatment	A person may ethically forgo disproportionate means of preserving Life. Disproportionate means are those that in the patient's judgement do not offer a reasonable hope of benefit or entail excessive burden or impose excessive expense on the family or the community. **A person may forgo extra-ordinary or disproportionate means of preserving life. Disproportionate means are those that in the patient's judgment do not offer a reasonable hope of benefit or entail an excessive burden, or impose excessive expense on the family or the community. #57**	"Health care decision" means consent, refusal of consent, or withdrawal of consent to health care, or a decision to begin, continue, increase, limit, discontinue, or not to begin any health care, including any care, treatment, service or procedure to maintain, diagnose, or treat an individual's physical or mental condition. Probate Code ∋∋4609-4612
6.	Patient requests to forgo artificial nutrition and hydration.	Since artificial hydration and nutrition are medical treatments, the same ethical principle about disproportionate means of preserving life applies. There should be a presumption in favor of providing artificial nutrition and hydration as long as this is of sufficient benefit to outweigh the burdens involved to the patient. **There should be a presumption in favor of providing nutrition and hydration to all patients, including patients who require medically assisted nutrition and hydration, as long as this is of sufficient benefit to outweigh the burdens involved to the patient. #58** **A person may forgo extraordinary or disproportionate means of preserving life. Disproportionate means are those that in the patient's judgment do not offer a reasonable hope of benefit or entail an excessive burden, or impose excessive expense on the family or the community. #57**	"Health care decision" means a decision made by a patient or the patient's agent, conservator, or surrogate, regarding the patient's health care, including directions to provide, withhold, or withdraw artificial nutrition and hydration. Probate Code ∋4617

7.	Surrogate(s) not agreed upon.	The surrogate decision-maker should be a person concerned for the welfare of the patient with knowledge about the patient's previously expressed preferences regarding treatment. **In the event that an advance directive is not executed, those who are in a position to know best the patient's wishes – usually family members and loved ones – should participate in the treatment decisions for the person who has lost the capacity to make health care decisions. #25**	Appropriate surrogates must: (1) be in the best position to know patient's preferences; (2) be most affected by the decision; (3) be concerned for the patient's welfare; and (4) have expressed an interest in the patient by visits or inquiries during hospital stay. While family members should be considered first, it may be appropriate to rely on non-family members who satisfy above criteria. Barber v. Superior Court 1983.
8.	No surrogate available.	When no surrogate is available and the patient is not known by caregivers, a treatment decision should promote the patient's well being in accord with respect for human dignity. **The well-being of the whole person must be taken into account in deciding about any therapeutic intervention or use of technology. Therapeutic procedures that are likely to cause harm or undesirable side-effects can be justified only by a proportionate benefit to the patient. #33**	Decisions made without knowledge of the patient's preferences (no surrogate and no prior interaction with caregivers) must be in the patient's best interests and should consider: (1) relief of suffering; (2) preservation of function; (3) quality and extent of life sustained; (4) degree of intrusiveness, risk or discomfort of treatment; and (5) the impact on those closest to the patient. Court intervention to appoint a surrogate may be obtained, but courts are "not the proper forum in which to make health care decisions…." AB891
9.	Patient's Advance Directive not being honored OR patient's known preferences being disregarded.	The surrogate's duty is to choose the ethically appropriate alternative most in accord with the patient's expressed preferences or known desires / values. **Each person may identify in advance a representative to make health care decisions as his or her surrogate in the event that the person loses the capacity to make health care decisions. Decisions by the designated surrogate should be faithful to Catholic moral principles and to the persons intentions and values, or if the person's intentions are unknown, to the person's best interests. #25**	Caregivers that act in good faith and in accordance with generally accepted standards are immune from civil or criminal liability or discipline for unprofessional conduct when they decline to comply with decisions due to a belief that the decision maker lacks authority (which would include when patient preferences are being disregarded). AB891
10.	Patient / surrogate insisting on medically, i.e., physiologically, futile treatment.	Healthcare givers are not ethically obligated to initiate or continue medical treatment that would be physiologically futile. **The well-being of the whole person must be taken into account in deciding about any therapeutic intervention or use of technology. Therapeutic procedures that are likely to cause harm or undesirable side-effects can be justified only by a proportionate benefit to the patient. #33**	A health care provider or institution may decline to comply with an instruction or decision that requires medically ineffective health care or health care contrary to generally accepted health care standards. Probate Code ∋4735

11.	Surrogate or caregivers being unwilling to stop an existing treatment.	There is no ethical or legal difference between withholding and withdrawing treatment. Considerations that justify not initiating treatment also justify withdrawing treatment.	A health care provider may decline to comply with an individual health care instruction or health care decision for reasons of conscience. Probate Code ∋4734(a
12.	Surrogate or health care provider is insisting that treatment be continued after patient has been pronounced dead in accordance with neurological criteria, i.e., "brain death."	Once the patient has been pronounced dead, medicines and machines ought to be discontinued as soon as possible (giving loved ones a reasonable opportunity to say "goodbye"). **The determination of death should be made by the physician or competent medical authority in accordance with responsible and commonly accepted scientific criteria. #62**	Once a patient has been pronounced dead, all medical interventions, including ventilatory support, should be withdrawn. Uniform Determination of Death Act.

This "Ready Reference Grid" (RRG) was created at St. Joseph Health System to assist clinicians when facing bioethics issues within their work. The RRG was last reviewed in 2003, and the legal provisions and statutes are unique to the state of California.

If you have any questions about the content or function of this tool, please contact the Theology & Ethics staff at the Catholic Health Initiatives:

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