

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 211
(A-08)

Introduced by: Georgia Delegation
Subject: Advance Directive
Referred to: Reference Committee B
(Craig W. Anderson, MD, Chair)

- 1 Whereas, The preparation of an Advanced Directive provides loved ones and physicians with
2 important information regarding how an individual would like to be cared for in certain crisis
3 situations; and
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5 Whereas, It is in the best interest of all Americans that each person over the age of 21 prepare
6 an Advanced Directive; and
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8 Whereas, In order to ensure patient wishes, as expressed in an Advanced Directive, are carried
9 out, physicians must have timely access to Advanced Directives; and
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11 Whereas, A national government registry of Advanced Directives is needed to ensure
12 physicians have access to such directives in a timely manner; and
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14 Whereas, A financial incentive is necessary to encourage the use and registration of Advanced
15 Directives; now therefore be it
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17 RESOLVED, That our American Medical Association advocate for a national government
18 registry of Advanced Directives and for a one-time refundable tax credit for those individuals
19 that prepare and register an Advanced Directive. (Directive to Take Action)

Fiscal Note: Implement accordingly at estimated staff cost of \$4,365.

Received: 05/07/08

RELEVANT AMA POLICY

D-140.976 Advance Health Care Directive

Our AMA will: (1) encourage all physicians and their families to complete a Durable Power of Attorney for Health Care (DPAHC) and an Advance Directive (AD) as soon as reasonably possible; (2) encourage all medical schools to educate medical students and residents about the importance of having a DPAHC/AD before becoming severely ill and encourage them to fill out their own DPAHC/AD; (3) along with other state and specialty societies, work with any state that has technical problems with their DPAHC/AD to correct those problems; (4) create other strategies to help physicians encourage all their patients to complete their DPAHC/AD; (5) work with Congress and the Department of Health and Human Services to make it a national public health priority to educate the public as to the importance of having a DPAHC/AD and to encourage patients to work with their physicians to complete a DPAHC/AD as soon as reasonably possible; and (6) advocate for the implementation of secure electronic advance health care directives. (Res. 603, I-04; Reaffirmed: Res. 209, A-05; Reaffirmation A-06; Reaffirmed: BOT Rep. 22, A-06; Appended: Res. 4, A-07)

RELEVANT AMA POLICY (cont.d)

E-8.081 Surrogate Decision-Making

Competent adults may formulate, in advance, preferences regarding a course of treatment in the event that injury or illness causes severe impairment or loss of decision-making capacity. These preferences generally should be honored by the health care team out of respect for patient autonomy. Patients may establish an advance directive by documenting their treatment preferences and goals in a living will or by designating a health care proxy (durable power of attorney for health care) to make health care decisions on their behalf. In some instances, a patient with diminished or impaired decision-making capacity can participate in various aspects of health care decision-making. The attending physician should promote the autonomy of such individuals by involving them to a degree commensurate with their capabilities. If a patient lacks the capacity to make a health care decision, a reasonable effort should be made to identify a prior written expression of values such as a pertinent living will, or a health care proxy. When reasonable efforts have failed to uncover relevant documentation, physicians should consult state law. Physicians should be aware that under special circumstances (for example, reproductive decisions for individuals who are incompetent), state laws may specify court intervention. In the absence of state law specifying either appropriate surrogate decision-makers or a process to identify them, the patient's family, domestic partner, or close friend should become the surrogate decision-maker. When there is no family, domestic partner, or close friend, persons who have some relevant knowledge of the patient should participate in the decision-making process. In all other instances, a physician may wish to consult an ethics committee to aid in identifying a surrogate decision-maker or to facilitate sound decision-making. When there is evidence of the patient's preferences and values, decisions concerning the patient's care should be made by substituted judgment. This entails considering the patient's advance directive (if any), the patient's views about life and how it should be lived, how the patient has constructed his or her identity or life story, and the patient's attitudes towards sickness, suffering, and certain medical procedures. If there is no reasonable basis on which to interpret how a patient would have decided, the decision should be based on the best interests of the patient, or the outcome that would best promote the patient's well-being. Factors that should be considered when weighing the harms and benefits of various treatment options include the pain and suffering associated with treatment, the degree of and potential for benefit, and any impairments that may result from treatment. Any quality of life considerations should be measured as the worth to the individual whose course of treatment is in question, and not as a measure of social worth. One way to ensure that a decision using the best interest standard is not inappropriately influenced by the surrogate's own values is to determine the course of treatment that most reasonable persons would choose for themselves in similar circumstances. Physicians should recognize the proxy or surrogate as an extension of the patient, entitled to the same respect as the competent patient. Physicians should provide advice, guidance, and support; explain that decisions should be based on substituted judgment when possible and otherwise on the best interest principle; and offer relevant medical information as well as medical opinions in a timely manner. In addition to the physician, other hospital staff or ethics committees are often helpful to providing support for the decision-makers. In general, physicians should respect decisions that are made by the appropriately designated surrogate and based on the standard of substituted judgment or best interest. In cases where there is a dispute among family members, physicians should work to resolve the conflict through mediation. Physicians or an ethics committee should try to uncover the reasons that underlie the disagreement and present information that will facilitate decision-making. When a physician believes that a decision is clearly not what the patient would have decided, could not be reasonably judged to be within the patient's best interests, or primarily serves the interest of a surrogate or a third party, an ethics committee should be consulted before requesting court intervention. Physicians should encourage their patients to document their treatment preferences or to appoint a health care proxy with whom they can discuss their values regarding health care and treatment in advance. Because documented advance directives are often not available in emergency situations, physicians should emphasize to patients the importance of discussing treatment preferences with individuals who are likely to act as their surrogates. (I, III, VIII) Issued December 2001 based on the report "Surrogate Decision-Making," adopted June 2001; updated December 2004.

H-370.977 The Inclusion of Advance Directives Concerning Organ Donation in Living Wills

Our AMA will develop model legislation which would create provisions for organ donation within living will forms and other health care advance directives, including but not limited to durable power of attorney forms; and encourages physicians to discuss advance directives and organ donation as a part of the ongoing doctor-patient relationship. (Res. 218, I-93; Reaffirmed: Res. 3, A-99; Reaffirmed: CSA Rep. 6, A-00; Reaffirmed: CSA Rep. 4, I-02)

H-270.963 Organ Donation

Our AMA urges the Centers for Medicare & Medicaid Services and other federal and state organizations with authority over healthcare advanced directives to add a health care directive regarding organ donation to the Advance Directive Form. (Res. 2, A-02; Reaffirmed: CSA Rep. 4, I-02)