

Advanced Directives and Out of Hospital Witnessing for DNR – April 15, 2020 0830

Spectrum Health contact: Kim McCoy

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Situation: In all areas across the system, with limiting of visitors, we have increased difficulty with obtaining witnesses to execute ACP documents, which includes the Durable Power of Attorney for Healthcare (DPOAH) and Out of Hospital Do Not Resuscitate (OOH DNR) documents.

Background: In compliance with Michigan statute, the existing [Advance Medical Directives](#) policy indicates that “Spectrum Health employees, Spectrum Health volunteers, and the patient’s family members cannot sign the DPOAH as a witness”.

When an individual is witnessing a signature, they are attesting that the individual appears to be of sound mind and under no duress, fraud, or undue influence.

Assessment: MHA and other healthcare organizations have been encouraging the State of Michigan to relax witnessing requirements during the COVID-19 pandemic. This is critical in light of visitor restrictions and the need to proactively document patient preferences, especially in this time when our acute care resources may become stretched beyond capacity.

Recommendation: These recommendations are based on current law. If witnessing requirements are revised, we will immediately update these recommendations. Based on discussions with key stakeholders, including legal input, options at this time are the following:

Option 1: Witnessing via video, where able. This would require:

- Video conferencing (skype, facetime, etc.) of two witnesses that meet the witnessing requirements to observe the individual’s signature, as well as
- Two staff members in the patient room to observe the video witnesses and document the video witness in the document following similar process as used with the Informed Consent policy (reference Informed Consent Policy #817).

Option 2: Witnessing via phone where available utilizing the same processes as informed consent for invasive procedures (reference Informed Consent Policy #817). The concern from a witness perspective is that, technically, when an individual is witnessing a signature they are attesting that the person appears to be of sound mind and under no duress, fraud, or undue influence, which is difficult to do via phone. Phone witness would require:

- A conference call with two witnesses that meet the witnessing requirements, as well as
- Two staff members in the patient room to listen in and sign the paperwork, documenting the phone call witness took place.

Option 3: Have Spectrum Health employees and/or providers witness a DPOAH if and when circumstances do not allow for obtaining signatures from independent witnesses as required by state law.

This would decrease the chances of unnecessarily risk of exposure for non-clinical bedside patient care staff and visitors.

Option 4: Forgo witness signatures with the understanding that while the document does not meet State of Michigan requirements to give decision making authority to a Patient Advocate, it does communicate the patient's intent and treatment preferences.

*Additional Out of Hospital DNR witnessing recommendation: The Out of Hospital DNR order also requires two witness signatures and legislation allows for the use of one (1) healthcare provider and one (1) family member to witness. We could make an exception from our SH policy to allow both witnesses to be healthcare team members, excluding the physician who will be signing the order.