

Advance Directive Document Witnessing – November 20, 2020 1643

Spectrum Health contact: Kim McCoy

Document reviewed: March 25, 2021

Decision

The Command Center approved this SBAR on 12/3/2020, replacing the previously approved Advance Directive Document Witnessing SBAR approved on 4/15/2020. This new recommendation will enable our system to help patients complete legally binding Advance Directive documents and also follow House Bill 6294 that was signed into law November 5, 2020. No longer having the option for Spectrum Health staff to witness the Durable Power of Attorney for Health Care document will protect staff from potential legal challenges.

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.

A [SBAR](#) was approved by West Michigan Executive Team on April 15, 2020 allowing each site to witness documents based on available resources and minimizing risk. For the inpatient spaces Spectrum Health employees have been acting as witnesses.

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.

Use of employees as witnesses was intended to be a short-term solution. As COVID-19 continues to be an influence in our community a longer-term solution that enables patients documents to be honored and protects staff from being pulled into legal proceedings is needed.

House Bill 6294 that was signed into law November 5, 2020, outlining requirements for video witnessing.

Recommendation

These recommendations are based on current law. We will immediately update these recommendations if additional executive orders or legislation is passed. Based on discussions with key stakeholders, including legal input, Option 1 and Option 2 will result in a complete DPOAH document. Option 3 is a last resort to capture a patient’s intent but does not meet legal requirements.

Option 1: Video witnessing via Microsoft Teams video conferencing. This would require:

- Recorded video conferencing with two eligible witnesses using Microsoft Teams.

- Storage of video recording in EMR, attached to the signed document and retained for 3 years.
- Follow system standard work, which can be found [here](#). (visible to Spectrum Health employees only)
- Process reviewed and approved by IS Security and Privacy
 - PHI is included in the video itself and it resides in Microsoft Stream.
 - The video is restricted to the staff member who hosted the meeting (by default) and then shared only with the Office 365 group for upload (2 individuals).
 - It will be deleted from Stream as soon as the group gets to it.
 - The other necessary PHI (MRN and DOB) will be sent via an email to that group.

Option 2: Find witnesses and use appropriate social distancing and PPE, visitors witness a DPOAH and sign documents digitally.

Option 3: 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.

Decision Making Roles

<For each, indicate individuals and committees where appropriate, with leads clearly identified.>

R	(Recommend)	–	James Bonner
A	(Agree)	–	Amy Lodenstein, Michelle Debski
P	(Perform)	–	Rena Reuhle, Jen Eriks
I	(Input)	–	Megan VerMerris, Kim McKoy, Lindsay Eastman
D	(Decide)	–	West Michigan Executive Team