



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
PRISON
OFFENDER/SPANISH MANUALS

REVISION DATE
DRAFT
4/21

PAGE NUMBER
1 of 5

NUMBER
DOC 620.010

POLICY

TITLE
ADVANCE DIRECTIVES

REVIEW/REVISION HISTORY:

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| Effective: 12/15/89 | Revised: 12/23/09 |
| Revised: 9/1/94 | Revised: 8/29/11 |
| Revised: 11/12/03 | Revised: 7/1/13 |
| Revised: 11/5/08 | Revised: 7/1/15 |
| Reviewed: 3/24/09 | Revised: DRAFT |

SUMMARY OF REVISION/REVIEW:

Adjusted terminology throughout
Removed II.B. if an incarcerated individual selects another incarcerated individual to serve as power of attorney, it must be reviewed and approved by the Superintendent

APPROVED:

DAN JOHNSON, MBA
Chief Medical Officer


Date Signed

DAN JOHNSON, MBA
Assistant Secretary for Health Services

Date Signed

STEPHEN SINCLAIR, Secretary
Department of Corrections

Date Signed

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REFERENCES:


DOC 100.100 is hereby incorporated into this policy; [RCW 11.94](#); [RCW 70.122](#); [DOC 630.520 Mental Health Advance Directives](#); McNabb v. Department of Corrections, et al., 163 Wn.2d 393, 180 P.3d 1257 (2008)

POLICY:

- I. ~~An offender~~ Incarcerated individuals may give instructions for the management of his/her their health care in the event that s/he is they are unable to express his/her their wishes, ~~either~~ by communicating those specific wishes in advance in one of the following ~~These documents are known as~~ Advance Directives: **Reorganized this section for clarity**
 - A. Health Care Directive (i.e., Living Will), or
 - B. Giving someone else the authority to make the decisions ~~for him/her~~ on their behalf in a Durable Power of Attorney for Health Care.
- II. Nothing in this policy shall be construed to condone, authorize, or approve mercy killing or active euthanasia.
- III. Mental Health Advance Directives will be handled per DOC 630.520 Mental Health Advance Directives.

DIRECTIVE:

- I. Health Care Directive
 - A. ~~An offender~~ Individuals may, at any time, sign a Health Care Directive outlining his/her their wishes with regard to treatment, including life-sustaining treatment.
 1. ~~S/he will be informed by~~ The attending physician of his/her will inform an individual of the individual's right to have life-sustaining treatment withheld or withdrawn and the consequences of those actions. ~~This and document the discussion will be recorded in the offender health record.~~ **Moved down and reworded**
 2. DOC 13-311 Health Care Directive must be signed by the offender individual and witnessed by 2 ~~individuals~~ other persons, who:
 - a. Are not employees,
 - b. Are not related to the offender by individual through blood or marriage, and

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c. Cannot benefit from the offender's individual's death.

II. Durable Power of Attorney for Health Care


- A. An offender incarcerated individual may, at any time, establish a Durable Power of Attorney for Health Care. ~~In so doing, the offender, which~~ designates an agent to make health care decisions when the offender individual is unable to ~~do so~~ and establishes the powers of that agent.
1. DOC 13-392 Durable Power of Attorney for Health Care must be signed by the offender individual and notarized.
 2. The offender individual may designate one Durable Power of Attorney for Health Care and one alternate who can serve in the event the primary designee is unavailable.
- B. ~~If an offender selects another offender to serve as power of attorney, that selection must be reviewed and approved by the Superintendent.~~
- C. The Department will make all reasonable efforts to contact the identified agent if ~~s/he~~ the agent is needed.

III. Substitute Documents

- A. While Department forms are preferred, a legally valid Health Care Directive, Living Will, Durable Power of Attorney for Health Care, or other Advance Directive will be honored in the absence of the corresponding Department form.

IV. Withholding or Withdrawing Life-Sustaining Treatment

- A. For medically necessary and indicated life-sustaining treatment to be withheld or withdrawn:
1. The offender incarcerated individual must have a valid DOC 13-311 Health Care Directive or equivalent for health care on file, and
 2. There must be a diagnosis of a terminal condition by the attending physician or a diagnosis of a permanent unconscious state by 2 physicians and documented in the ~~permanent offender~~ individual's health record.
- B. When applying an Advance Directive, the attending physician should ensure that all steps comply with RCW 70.122.030 and are consistent with the offender's individual's wishes.

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- C. As Department forms may not be recognized by community emergency response personnel and other community health care providers, an ~~offender~~ individual who wishes to have life-sustaining treatment withheld or withdrawn should also have a valid [Physician Orders for Life-Sustaining Treatment](#) (POLST) on file.
- D. A valid DOC 13-311 Health Care Directive, POLST, or non-Department Advance Directive will not preclude administration of medications or procedures necessary to alleviate pain.

V. Revocation

- A. ~~The offender~~ An incarcerated individual may revoke any Advance Directive at any time without regard to mental state or competency by:
 - 1. Signing and dating a written revocation,
 - 2. Verbally stating ~~his/her~~ intent to revoke, or
 - 3. Canceling, defacing, or otherwise destroying the Advance Directive, either personally or by direction to another person in the ~~offender's~~ individual's presence.
- B. ~~Such~~ Revocation becomes effective only when it is communicated to the attending physician by the ~~offender~~ individual or by a person acting on the ~~offender's~~ individual's behalf.
- C. Upon receiving ~~the~~ revocation, the attending physician will record the time and date in the ~~offender~~ health record and remove the Advance Directive from the record for return to the ~~offender~~ individual or person acting on the ~~offender's~~ individual's behalf.
- D. There ~~shall~~ will be no criminal or civil liability on the part of any person for failure to act upon a revocation made pursuant to this policy, unless ~~s/he~~ the person has actual or constructive knowledge of the revocation.
- E. If the ~~offender~~ individual becomes comatose or is rendered incapable of communicating with the attending physician, any Advance Directives shall remain in effect until the ~~offender's~~ individual's condition renders ~~him/her~~ the individual able to communicate with the attending physician.

VI. Self-Harm

- A. Advance Directives to withhold life-sustaining treatment, POLST, and Durable Power of Attorney for Health Care will not be valid in cases where an otherwise healthy ~~offender~~ individual has taken deliberate action to harm ~~him/herself~~ the individual's self, including attempting suicide.

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VII. Liability

- A. Any physician, health care provider acting under the direction of a physician, or health facility personnel who participates in good faith in the withholding or withdrawal of life-sustaining treatment from an ~~offender~~ incarcerated individual per RCW 70.122 shall be immune from legal liability, including civil, criminal, or professional conduct sanctions unless otherwise negligent.
- B. No nurse, physician, or other health care practitioner is required by law or contract to participate in the withholding or withdrawal of life-sustaining treatment if ~~s/he objects~~ they object to doing so.
 1. ~~However, s/he~~ The person must notify ~~his/her~~ their supervisor, immediately upon learning that an ~~offender~~ individual has an order in place, of ~~his/her~~ the unwillingness to carry out such an order. **Moved down**
- C. No person may be discriminated against in employment or professional privileges because of ~~his/her~~ participation or refusal to participate in the withholding or withdrawal of life-sustaining treatment.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORMS:

DOC 13-311 Health Care Directive
DOC 13-392 Durable Power of Attorney for Health Care