PURPOSE:

The purpose of this policy is to provide an atmosphere of respect and caring and to ensure that each patient’s ability and right to participate in medical decision making is maximized and not compromised as a result of admission for care through this facility. Additionally, the purpose of this policy is to assure compliance with the Patient Self-Determination Act (PSDA) in such a manner as to expand the patient, personnel and community knowledge base regarding advance directives and the process by which patient participation in medical decision making is carried out at this facility. It is the purpose to facilitate compliance with applicable laws and accreditation standards regarding health care decision making.

POLICY:

Through education and inquiry about Advance Directives, The Orthopaedic Surgery Center, LLC (TOSC) encourages patients to communicate their health care preferences to their attending physician and caregivers. TOSC will comply with state and federal laws and the Center for Medicare and Medicaid Services Conditions for Coverage standards.

It is the policy of this facility to respect and encourage patient self-determination. Patients may present an Advanced Directive. The Advanced Directive is kept with your medical record and will be supplied to the receiving facility in the event of a transfer.

At the time a procedure is scheduled, TOSC staff will ask each patient or patient’s representative whether he/she has an Advance Directive (“AD”) and if so, to provide a copy to the facility. If the patient does not have an AD, staff will ask the patient if he/she desires information on AD and/or Wisconsin AD forms, to allow for guidance of significant others and healthcare providers in following the patient’s wishes should the patient become incapacitated, rendering them unable to make decisions. The existence of an Advance Directive, or lack thereof, will not determine the patient’s access to care, treatment and services.

At the same time, i.e. during procedure scheduling, patients will be informed that it is the policy of this facility to obtain patient consent for physicians at TOSC to decline patients’ ADs during treatment at the facility due to Wisconsin State Law under the following three circumstances of objection:
1. When the physician believes that withholding or withdrawing life-sustaining procedures or feeding tubes would cause the patient pain or reduced comfort and that pain or discomfort cannot be alleviated through pain relief measures. This objection may be raised by an individual physician on a case-by-case basis.

2. When the physician feels he cannot comply with the advance directive due to a conscience objection.
   a. This objection may be raised by an individual physician.

3. When the patient is pregnant. An advance directive has no effect if the physician knows the patient is pregnant.
   b. This objection may be raised on an ASC-wide basis.

In the event of a transfer, the patient’s AD, if one exists, will be sent on to the receiving facility.

Each patient’s understanding of this policy will be documented by a statement to this effect on the facility’s consent form. If the patient wishes to assert his/her right to refuse to decline the AD per Wisconsin State law, the patient will be offered information on obtaining the procedure at another facility.

TOSC will attempt to resuscitate a patient if they meet circumstances of objection and transfer that patient to a hospital in the event of deterioration.

GUIDELINES:

154.03 Declaration to Physicians (Living Will):
Any person of sound mind and 18 years of age or older may at any time voluntarily execute a declaration, which shall take effect on the date of execution, authorizing the withholding or withdrawal of life-sustaining procedures or of feeding tubes when the person is in a terminal condition or is in a persistent vegetative state.

Guardian:
A Guardian is an individual appointed by a Wisconsin court to manage income and assets and/or to provide for the essential requirements for health, safety and personal needs of a minor or and individual found to be incompetent.

Health Care Agent:
A Health Care Agent is an individual designated by the patient to make health care decisions on behalf of the patient in a Power of Attorney for Health Care document.

Health Care Decision:
A Health Care Decision is an informed decision in the exercise of the right to accept, maintain, discontinue or refuse health care.

Incapacity:
Incapacity is the inability to receive and evaluate information effectively or to communicate decisions to such an extent that the individual lacks the capacity to manage his or her health care
decisions. Mere old age, eccentricity or physical disability, either singly or together, is insufficient to make a finding of incapacity.

(5m) **Persistent Vegetative State:**
Persistent Vegetative State is a condition that reasonable medical judgment finds constitutes complete and irreversible loss of all of the functions of the cerebral cortex and results in a complete, chronic and irreversible cessation of all cognitive functioning and consciousness and a complete lack of behavioral responses that indicate cognitive functioning, although autonomic functions continue.

**Statement of Incapacitation**
A document in which two physicians, or one physician and one licensed psychologist, certify that they have personally examined the patient and found the patient to be incapacitated.

**Terminal Condition:**
Terminal condition is an incurable condition caused by injury or illness that reasonable medical judgment finds would cause death imminently, so that the application of life sustaining procedures serves only to postpone the moment of death.

**Wisconsin Do Not Resuscitate (DNR) Bracelet:**
An identification bracelet that meets state requirements and signifies that the wearer is a qualified patient who has obtained a do-not-resuscitate order and that order has not been revoked. The bracelet is intended to communicate the patient’s treatment preferences to emergency medical technicians, first responders, and emergency health care facilities.

**PROCEDURE:**

I. Standards as outlined by CMS(i): The Ambulatory Surgery Center (ASC) must comply with the following requirements:

   A. Provide the patient or, as appropriate, the patient’s representative in advance of the date of the procedure, with information concerning its policies on Advance Directives, including a description of applicable State health and safety laws and, if requested, official State Advance Directive forms.

      1. All patients will receive in writing, prior to or on the date of procedure, written notice of the TOSC Patient’s Rights and Responsibilities form which is included in the patient pre-operative packet. The informational packet contains but is not limited to:

         a) Information regarding TOSC policies on Advance Directives
         b) Reference to applicable State health and safety laws
         c) Information regarding accessibility of official State Advance Directive forms (www.wisconsin.gov)
         d) Information regarding the patient’s right to make informed decisions regarding his/her medical care.

      2. The attending physician or clinical staff will address an existing Do Not Resuscitate (DNR) statement/order included in the patient’s existing
Advance Directive during the preoperative planning. The physician or clinical staff will explain and discuss the DNR statement/order of an existing Advance Directive by circumstances of objection allowed by Wisconsin State Law. If a patient wishes not to accept those circumstances of objection, all efforts will be made to offer the patient another facility where the physician is credentialed that will honor their AD measures.

3. If requested, the attending physician’s clinical staff will provide the patient with TOSC information regarding the obtaining of official State forms.

4. During a preoperative evaluation and information gathering phone call, the TOSC Preoperative Phone Call Registered Nurse (RN):
   a. Will request and document in the TOSC Medical Record, patient information regarding the status of an existing DNR statement/order of an existing Advance Directive
   b. Will discuss with the patient TOSC policy on circumstances of objection allowed by the State of Wisconsin, which allow a physician not to follow an existing AD.
   c. If a patient wishes not to accept these circumstances of objection all good faith efforts will be made to offer the patient another facility where the physician is credentialed that will honor their AD measures.
   d. Per patient request TOSC will provide information regarding the obtaining of official State forms.
   e. Will instruct the patient or representative to bring a copy or the original version of an existing Advance Directive on the day of the scheduled procedure.

B. Inform the patient or, as appropriate, the patient’s representative of the patient’s rights to make informed decisions regarding the patient’s case.
   1. The required information will be discussed with the patient and/or representative as outlined in A (1-4).
   2. During discussions between the patient or representative and the attending physician and/or the Preoperative Phone Call RN, if the patient consents to policy on AD the following will occur during their stay at TOSC.
      a. If applicable the presence of the attending physicians signature on the consent form will confirm the patient has agreed to one or all of the circumstances of objection to not follow their existing AD.
      b. The presence of the patient’s signature on the informed consent verifies that the patient has agreed to one or all of the three circumstances of objection per Wisconsin State Law to not follow their existing DNR statement/order of the
existing Advance Directive during the scheduled procedure and any other identified TOSC timeframe.

c. If consent is identified by the Preoperative Phone Call RN, the responsible RN will document on the medical record the patients understanding and agreement of AD TOSC policy.

C. Document in a prominent part of the patient’s current Medical Record, whether or not the individual has executed a DNR statement/order of the existing Advance Directive.

1. Information regarding the existence of a DNR statement/order of an Advance Directive may be obtained from but is not limited to the following:
   a. Patient or representative interview with attending physician, clinical staff, TOSC preoperative phone call RN.
   b. Presentation of an official document during the physician visit or admission process to TOSC.
   c. If a patient presents at the time of admission they will be informed that it is the policy to honor a patient’s ADs except per one or all of the three circumstances of objection allowed by Wisconsin State law and all life sustaining efforts will be initiated and performed for them. A copy of the AD, presented to the facility, will be placed in the patient’s chart. The chart will be flagged with a YELLOW AD flag. In the event of an emergency and/or transfer, the chart, inclusive of the AD, will be sent with the patient to a higher level of care, i.e. the hospital emergency room.

2. Documentation of an existing DNR statement/order of an existing Advance Directive and status during scheduled procedure on the TOSC Medical Record will be provided on but is not limited to the following forms:
   a. Preoperative Phone Call
   b. Informed consent

3. All patients that request their existing DNR statement/order of an Advance Directive to be active and honored will be rescheduled. The physician will make a good faith effort to refer the patient to another provider who will honor the ADs.

4. A copy of the patient’s existing Advance Directive will be placed in the TOSC Medical Record.

5. All patients who have predetermined to accept our circumstances of objection as allowed by Wisconsin State Law will initial the designated statement on the Informed Consent upon admission.

6. In case of transfer of the patient with an existing Advance Directive to another facility, e.g. emergency transfer to inpatient status, TOSC will provide a copy of the Advance Directive to the receiving facility.
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Approved by TASK FORCE BOARD of Managers ______________________ Date ______

Approved by Medical Director _________________________________ Date ______

Approved by Clinical Director ________________________________ Date ______

Approved by the Safety Officer _______________________________ Date ______