HEALTH CARE DIRECTIVES POLICY

PURPOSE: To implement standards established by Congress in the Patient Self-Determination Act of 1990. To comply with the MN Department of Health Statutes regarding healthcare directives. Additionally, to comply with the Center for Medicare Conditions for Coverage for Ambulatory Surgery Centers chapter 416.50(2) regarding patient rights and advance directives. MN Statutes 145B Living Wills and MN Statutes 145C Health Care Directives will be used as a reference if interpretation of this policy becomes necessary. Definitions for Two Twelve Surgery Center policy will be derived from MN Statutes 145C.01.

§416.50(a) (2) Standard: Advance Directives
The ASC must comply with the following requirements:

(i) Prior to the start of the procedure, provide the patient, the patient’s representative or the patient’s surrogate with verbal and written notice of the patient's rights in a language and manner that the patient, the patient's representative, or the surrogate understands all the patient’s rights as set forth.

(ii) The ASC must provide the patient or, as appropriate, the patient's representative with written 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.

(iii) Document in a prominent part of the patient's current medical record, whether or not the individual has executed and advance directive.

DEFINITION: Act in good faith: "Act in good faith" means to act consistently with a legally sufficient health care directive of the principal, a living will executed under chapter 145B, a declaration regarding intrusive mental health treatment executed under section 253B.03, subdivision 6d, or information otherwise made known by the principal, unless the actor has actual knowledge of the modification or revocation of the information expressed. If these sources of information do not provide adequate guidance to the actor, "act in good faith" means acting in the best interests of the principal, considering the principal's overall general health condition and prognosis and the principal's personal values to the extent known. Notwithstanding any instruction of the principal, a health care agent, health care provider, or any other person is not acting in good faith if the person violates the provisions of section 609.215 prohibiting assisted suicide.

Decision-making capacity: "Decision-making capacity" means the ability to understand the significant benefits, risks, and alternatives to proposed health care and to make and communicate a health care decision.

Health care agent: "Health care agent" means an individual age 18 or older who is appointed by a principal in a health care power of attorney to make health care decisions on behalf of the principal. "Health care agent" may also be referred to as "agent."
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Health care power of attorney: "Health care power of attorney" means an instrument appointing one or more health care agents to make health care decisions for the principal.

Health care: "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a person's physical or mental condition. "Health care" includes the provision of nutrition or hydration parenterally or through intubation but does not include any treatment, service, or procedure that violates the provisions of section 609.215 prohibiting assisted suicide. "Health care" also includes the establishment of a person's abode within or without the state and personal security safeguards for a person, to the extent decisions on these matters relate to the health care needs of the person.

Health care decision: "Health care decision" means the consent, refusal of consent, or withdrawal of consent to health care.

Health care directive: "Health care directive" means a written instrument that complies with section 145C.03 and includes one or more health care instructions, a health care power of attorney, or both; or a durable power of attorney for health care executed under this chapter before August 1, 1998.

Health care provider: "Health care provider" means a person, health care facility, organization, or corporation licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care directly or through an arrangement with other health care providers, including health maintenance organizations licensed under chapter 62D.Subd. 7.

Health care facility: "Health care facility" means a hospital or other entity licensed under sections 144.50 to 144.58, a nursing home licensed to serve adults under section 144A.02, a home care provider licensed under sections 144A.43 to 144A.47, an adult foster care provider licensed under chapter 245A and Minnesota Rules, parts 9555.5105 to 9555.6265, or a hospice provider licensed under sections 144A.75 to 144A.755.

Health care instruction: "Health care instruction" means a written statement of the principal's values, preferences, guidelines, or directions regarding health care.

Principal: "Principal" means an individual age 18 or older who has executed a health care directive.

POLICY: All patients undergoing surgery at the Two Twelve Surgery Center will be notified in advance of their surgical appointment regarding their rights under state law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and to formulate advanced directives. A notation will be made in the patient's medical record during the nursing pre-operative phone assessment. A copy of this facility's policy concerning advance directives, a description of applicable MN state laws, and copies of Health Care Directive forms recommended by the MN Department of Health will be offered if so requested by the patient.
In accordance with MN Statues 145C.12 subd.1, the Two Twelve Surgery Center will not require that a patient complete a Health Care Directive in order to receive care or treatment at this facility.

The patient will be assessed at the time of their surgical admission as to whether or not they have executed a Health Care Directive. A copy of this legal document will be incorporated into their medical record at the Two Twelve Surgery Center. The patient's Surgeon and Anesthesiologist will be notified if such a directive is presented. The attending Surgeon and Anesthesiologist will meet with the patient, and discuss in detail the extent of the principal's wishes as they may relate to the presented Health Care Directive. Medical Orders will be written and implemented when appropriate.

Due to the complexity and duration of time necessary to accurately complete a health care directive, the patient is expected to present a completed, legal Health Care Directive document at the time of admission if they so wish to have this incorporated into their medical record at our facility. In order for the completed Health Care Directive to be recognized and incorporated into the patient's medical record, the document must meet the minimum requirements as established in MN Statues 145C.03 subd. 1. If a patient requests assistance in completing a Health Care Directive, they will be directed to the MN Department of Health website, and encouraged to discuss their health care wishes with family and a primary healthcare provider.

Patients are encouraged to provide their own witnesses to their Health Care Directive. If this is not possible, only one of the two witnesses may be a healthcare provider providing direct care to the patient, or an employee of a healthcare provider providing direct care to the patient in accordance with MN Statues 145C.03 sub 3. Designated healthcare agents cannot act as a witness on this document. The Two Twelve Surgery Center is unable to provide a notary public on the day of surgery admission.

It shall be policy of the Two Twelve Surgery Center to provide medical care to restore health, reduce disability, prolong life, and alleviate suffering in the manner prescribed by applicable laws and regulations and in accordance with the highest standard of professional practice.

Although the Two Twelve Surgery Center presumes in favor of providing life-prolonging medical treatment, our facility policy is to provide indicated medical care at the consent of the patient or their agent when designated by a Health Care Directive. The right to consent to and refuse therapy supports a patient's right to decline life-prolonging medical treatment, including the right to refuse intubation and cardiopulmonary resuscitation (CPR). The patient's Health Care Directive will be followed according to the patient's wishes to the extent allowed by reasonable medical practice and state law. In the event that the Physician and/or facility is not willing or unable to comply with the patient's Health Care Directive, the patient and/or family will be notified and an effort will be made to transfer the patient's care to another Physician and facility who are willing and able to follow the patient's wishes. This facility will exercise an institution-wide conscience objection regarding a patient's request for a Do Not Resuscitate/Do Not Intubate order. Anesthesia services will not be provided for these patients at the Two Twelve Surgery Center. A progress note will be documented by the attending Anesthesiologist, and every effort will be made to initiate and transfer care in accordance with MN Statue 145B.06 and MN Statue 145B/07.
What if I’ve already prepared a healthcare document? Is it still good?
Before August 1, 1998, Minnesota law provided for several other types of directives, including living wills, durable health care powers of attorney and mental health declarations.

The law changed so people can use one form for all their health care instructions.

Forms created before August 1, 1998, are still legal if they followed the law in effect when written. They are also legal if they meet the requirements of the new law (described above). You may want to review any existing documents to make sure they say what you want and meet all requirements.

What should I do with my healthcare directive after I have signed it?
You should inform others of your health care directive and give people copies of it. You may wish to inform family members, your health care agent or agents, and your health care providers that you have a health care directive. You should give them a copy. It’s a good idea to review and update your directive as your needs change. Keep it in a safe place where it is easily found.

What if I believe a healthcare provider has not followed healthcare directive requirements?
Complaints of this type can be filed with the Office of Health Facility Complaints at: (651) 201-4201 (Metro Area) or Toll-free at 1-800-369-7994

What if I believe a health plan has not followed healthcare directive requirements?
Complaints of this type can be filed with the Minnesota Health Information Clearinghouse at: (651) 201-5178 or Toll-free at 1-800-657-3793

How to Obtain Additional Information
If you want more information about health care directives, please contact your health care provider, your attorney, or:

Minnesota Board on Aging’s Senior Link Line®
1-800-333-2433

A suggested healthcare directive form is available on the Internet at: http://www.mnaging.org/or you may request this form from Two Twelve Surgery Center and we will provide one to you.

Please allow up to 7 days to receive this information by mail.

Due to the nature of the services provided at Two Twelve Surgery Center, in the event of a medical emergency while receiving care at Two Twelve Surgery Center, it is our policy to resuscitate ALL patients until care can be transferred to an acute care facility. A copy of the patient’s advanced directive documents will accompany the patient upon transfer to an acute care facility.

Minnesota law allows you to inform others of your health care wishes. You have the right to state your wishes or appoint an agent in writing so that others will know what you want if you can’t tell them because of illness or injury. The information that follows tells about health care directives and how to prepare them. It does not give every detail of the law.

Two Twelve Surgery Center
111 Hundertmark Road
Chaska, MN 55318
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What is a healthcare directive?
A healthcare directive is a written document that informs others of your wishes about your health care. It allows you to name a person ("agent") to decide for you if you are unable to decide. It also allows you to name an agent if you want someone else to decide for you. You must be at least 18 years old to make a health care directive.

Why have healthcare directives?
A healthcare directive is important if your attending physician determines you can't communicate your health care choices (because of physical or mental incapacity). It is also important if you wish to have someone else make your health care decisions. In some circumstances, your directive may state that you want someone other than an attending physician to decide when you cannot make your own decisions.

Must I have a healthcare directive? What happens if I don't have one?
You don't have to have a health care directive. But, writing one helps to make sure your wishes are followed. You will still receive medical treatment if you don't have a written directive. Health care providers will listen to what people close to you say about your treatment preferences, but the best way to be sure your wishes are followed is to have a health care directive.

How do I make a healthcare directive?
There are forms for health care directives. You don't have to use a form, but your health care directive must meet the following requirements to be legal:

- Be in writing and dated.
- State your name.
- Be signed by you or someone you authorize to sign for you, when you can't understand and communicate your health care wishes.
- Have your signature verified by a notary public or two witnesses.
- Include the appointment of an agent to make health care decisions for you and/or instructions about the health care choices you wish to make.

Before you prepare or revise your directive, you should discuss your health care wishes with your doctor or other health care provider. Information about how to obtain forms for preparation of your health care directive can be found in the Resource Section of this document.

I prepared my directives in another state. Is it still valid?
Healthcare directives prepared in other states are legal if they meet the requirements of the other state's laws or the Minnesota requirements. However, requests for assisted suicide will not be followed.

What can I put in a healthcare directive?
You have many choices of what to put in your health care directive. For example, you may include:

- The person you trust as your agent to make health care decisions for you. You can name alternative agents in case the first agent is unavailable or joint agents.
- Your goals, values and preferences about health care.
- The types of medical treatment you would want (or not want).
- How you want your agent or agents to decide.
- Where you want to receive care.
- Instructions about artificial nutrition and hydration.
- Mental health treatments that use electroshock therapy or neuroleptic medications.
- Instructions if you are pregnant.
- Donation of organs, tissues, or eyes.
- Funeral arrangements.
- Who you would like as your guardian or conservator if there is a court action.

You may be as specific or as general as you wish.

You can choose which issues or treatments to deal with in your health care directive.

Are there any limits to what I can put in my healthcare directive?
There are some limits about what you can put in your health care directive. For instance:

- Your agent must be at least 18 years of age.
- Your agent cannot be your health care provider, unless the health care provider is a family member or you give reasons for the naming of the agent in your directive.
- You cannot request health care treatment that is outside of reasonable medical practice.
- You cannot request assisted suicide.

How long does a healthcare directive last? Can I change it?
Your health care directive lasts until you change or cancel it. As long as the changes meet the health care directive requirements listed above, you may cancel your directive by any of the following:

- A written statement saying you want to cancel it.
- Destroying it.
- Telling at least two other people you want to cancel it.
- Writing a new health care directive.

What if my healthcare provider refuses to follow my healthcare directive?
Your healthcare provider generally will follow your health care directive or any instructions from your agent, as long as the health care follows reasonable medical practice. But, you or your agent cannot request treatment that will not help you or which the provider cannot provide. If the provider cannot follow your agent's directions about life-sustaining treatment, the provider must inform the agent. The provider must also document the notice in your medical record. The provider must allow the agency to arrange to transfer you to another provider who will follow the agent's directions.