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DEPARTMENT OF HEALTH AND HUMAN RESOURCES

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M E M O R A N D U M

To: All
West Virginia Licensed Nursing Homes and Certified Nursing Facilities

From: Deanna L. Kramer, Co-Program Manager - OHFLAC
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Date: May 27, 2003

RE: **Problems with Specifying CPR Status on Advance Directives**

With increasing frequency, cases are coming to the attention of Office of Health Facility Licensure and Certification (OHFLAC) and the West Virginia University (WVU) Center for Health Ethics and Law of residents who have completed advance directives indicating they want cardiopulmonary resuscitation (CPR). These individuals then undergo deterioration in their medical condition to the point at which CPR has no reasonable expectation of benefit but a very real probability of harm. Although their medical power of attorney representative or health care surrogate may authorize a do-not-resuscitate (DNR) order after the person's condition deteriorates, according to West Virginia law the resident's expressed directive for CPR is to be followed. The following case illustrates this problem.

> A 73 year-old woman is admitted to a nursing home because of inability to care for herself at home secondary to arthritis and heart failure. As part of the admission process, a facility staff member with no medical or nursing background asks her preferences for CPR. The resident requests CPR, and the staff member has her sign the nursing home's own form authorizing CPR. No discussion occurs with a physician or nurse regarding the resident's request for CPR. The form is placed in the advance directive section of the nursing home medical record. The resident does not complete a living will or medical power of attorney.
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> Five years pass. The resident now has dementia and has lost decision-making capacity. Her daughter is appointed as her health care surrogate. Her heart failure has gotten worse, and she has had increasingly frequent hospital admissions for pulmonary edema. The resident's physician recommends a DNR order to the resident's healthcare surrogate because CPR is now no longer able to benefit the resident. The surrogate agrees to the DNR order, and the physician writes it.
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> The nursing home administrator becomes aware of the conflict between the resident's

signed form requesting CPR and the physician's DNR order in the chart. Based on her understanding of the West Virginia Health Care Decisions Act, the nursing home administrator says that the resident's expressed directive must be followed. The DNR order is rescinded, and the resident is made a full code. The daughter and the physician are both upset, because they realize that CPR has no realistic chance of helping the resident but will be traumatic for her, for them, and the health care professionals involved.

The best way to address this problem is to prevent it. Since CPR is automatically provided unless a resident requests a DNR order, there is no need to write "full code" on an advance directive. If residents insist on writing "full code" on their advance directive, it is important to have them specify circumstances in the future when they would not want CPR. For example, residents could write on their advance directive:

- "If I am too sick to make decisions for myself, I authorize _____ (name of person appointed to be medical power of attorney) to make medical decisions for me about CPR, breathing machines, feeding tubes, and dialysis" or

- "If I am too sick to make decisions for myself, I do not want CPR" or

- "If I am too sick to make decisions for myself, I grant _____ (name of person appointed to be medical power of attorney) leeway in making all medical decisions for me."

If facilities have forms about CPR which the residents sign, these forms can be modified to allow residents options such as those above so that facilities are not forced to do CPR on a resident who would not benefit from it. Facilities could include these options on their forms so that residents could check off which one (or ones) they wanted. For questions about this issue, please call Deanna Kramer or Matthew Keefer at (304) 558-0050.