Guidelines for Health Care Facilities To Implement Procedures Concerning the Care of Comatose Non-Cognitive Patients

In order to assist and guide the medical profession and the governing authorities of health care facilities* in the implementation of the procedures required by the New Jersey Supreme Court for cases similar to that of Karen Ann Quinlan, the formation and operation of the requisite Prognosis Committee is described herein. The term, Prognosis Committee, recognizes the Court's view that "the focal point of decision should be the prognosis as to the reasonable possibility of return to cognitive and sapient life."

The basic decision-making procedure, as paraphrased from the Court's conclusions, would be as follows:

> Upon the concurrence of the family, and in cases where required by law, the guardian** of the patient. should the responsible attending physicians conclude that there is no reasonable possibility of the patient's ever emerging from a comatose condition to a cognitive, sapient state and that the life-support apparatus being administered to the patient should be discontinued, they shall consult with the Prognosis Committee (or like body) serving the institution in which the patient is confined.

---

* In this context, "health care facility" means an institution or facility as defined in the Health Care Facilities Planning Act (N.J.S.A. 26:2H-2a)

** The term guardian as here used refers to the "guardian of the person of the incompetent." This individual may be designated by a Court to make decisions for the incompetent concerning the incompetent's physical state and bodily integrity, such as the acceptance or refusal of various types of treatment. Such guardians are bound by traditional fiduciary duties, and must act in the perceived best interests of the incompetent.

This form of guardianship is contrasted with the "guardian of the property of the incompetent" who may be designated by a court to make decisions for the incompetent concerning dispositions of the incompetent's realty and personalty. Such guardians have no control over the disposition of the incompetent's body; i.e., person, and are not involved in any decisions concerning the incompetent's medical treatment.

> If that consultative body agrees that there is no reasonable possibility of the patient's ever emerging from a comatose condition to a cognitive, sapient state, the life-support system may be withdrawn and said action shall be without any civil or criminal liability therefor on the part of any participant, whether guardian, physician, hospital or others.

A Prognosis Committee, which will facilitate the decision-making process outlined by the Court, should be established or arranged for by those health care facilities which receive inpatients who are or may become comatose and non-cognitive. The Committee should function in the manner indicated by the following guidelines.

A. Responsibility for Forming the Prognosis Committee

The Board of Trustees, or responsible governing authority of the facility, shall have the responsibility to select those physicians who will form the Prognosis Committee. The physicians shall be designated to serve for a specified term and one of these physicians shall be selected by the governing authority to chair the Prognosis Committee.

B. Composition of the Prognosis Committee

1. A standard complement of medical disciplines shall be represented on the Prognosis Committee. These disciplines will be: General Surgery; Medicine; Neurosurgery or Neurology; Anesthesiology; and Pediatrics (if so indicated by the type of patient). At least two (2) additional physicians from any appropriate disciplines shall be selected from outside the staff of the facility to serve on the Prognosis Committee.

2. It is highly desirable that the physicians serving on the Prognosis Committee be Board Certified in their respective specialties.

3. At the time that the Prognosis Committee is required to consider a case, the family, guardian or attending physician can request that the Prognosis Committee consult with a specific physician named by any of them. The medical specialty of such physician should be predicated upon the particular characteristics of the patient's case. The Prognosis Committee shall accede to this request. The family may also designate a physician, other than the attending physician, to be present throughout the Committee's proceedings.

4. Under no circumstances should any of the physicians serving on the Prognosis Committee have been the attending or treating physician on the case under consideration.

NOTE: In order to proceed with the establishment of the requisite Prognosis Committees some facilities, because of staff limitations, may need assistance in this effort or may desire to act cooperatively with neighboring institutions. For example, the regionalizing (or sharing) of a Prognosis Committee to serve several health care facilities is recommended as a practical approach. It is suggested, therefore, that health care facilities seek assistance in developing and coordinating such arrangements from the New Jersey Hospital Association as well as the professional medical organizations (The Medical Society of New Jersey, and the New Jersey Association of Osteopathic Physicians and Surgeons).

C. Activation of the Prognosis Committee

1. The patient's family or guardian, or the attending physician acting on behalf of the family may, in writing, request the health care facility's chief executive officer (administrator) to activate the Prognosis Committee to begin its work on a case. In the event that this request is made by the guardian of the patient, such individual shall present legal documentation so designating his status to the chief executive officer of the health care facility. The administrator has the responsibility to ensure that all of the required physician selections are made and to notify the Chairman of the Board of Trustees, or other responsible governing authority, as to the status of the Committee's composition.

2. The administrator shall advise the designated Chairman of the Prognosis Committee to have the group proceed promptly and with due diligence to come to a conclusion either supporting (concurring) or rejecting the prognosis of the attending physician.

3. The administrator shall also make readily available to the family the counselling and support services of the health care facility, or of the surrounding community.

D. Prognosis Committee Functions and Reporting Requirements

1. The Committee shall review all relevant patient records, with the family's consent, and shall seek additional medical information concerning the patient from those nursing personnel and other professionals it deems appropriate to the case under consideration. The Committee shall also determine which member or members will conduct a complete examination of the patient.

2. During the course of its deliberations, the Committee should arrive at a clear consensus with respect to the prognosis

of the patient although the Supreme Court's decision does not expressly require unanimity. It is recognized that professional standards dictate caution in the determination of the prognosis.

3. The Chairman of the Prognosis Committee shall summarize and report the Committee's conclusion, in writing, to the chairman of the hospital's Board of Trustees, or other responsible governing authority, the attending physician, the administrator of the hospital, the patient's family, and when appropriate, the patient's guardian. The report shall consist of the Committee's findings concerning the prognosis of the patient, supplemented by a summary of the information considered including professional consultations, if any, and the reasons supporting their conclusion. The report shall identify each of the participating members of the Committee and their respective specialties and which member or members performed the complete examination of the patient. Finally, the Committee shall make a specific written finding in the report as to whether there is no reasonable possibility of the patient's ever emerging from a comatose condition to a cognitive, sapient state. The report shall be retained and preserved by the health care facility as part of the medical record of the patient.

E. The Continuing Responsibility of the Attending Physician

It should be recognized from the foregoing that the function and responsibility of the Prognosis Committee is limited to the application of specialized medical knowledge to a particular case in order to arrive at a determination of concurrence or non-concurrence with the prognosis of the attending physician. Once that determination has been made and reported, the Committee has thereby discharged its responsibility. The attending physician, guided by the Committee's decision and with the concurrence of the family, may then proceed with the appropriate course of action and, if indicated, shall personally withdraw life-support systems.