



Mount Sinai Health System
New York, NY

DNR/LST/FHCDA Form 4

Adult Patient: Surrogate Consent to Withhold or Withdraw
Life-Sustaining Treatment,¹ Including DNR (See clinical criteria on page 4 of this form)

This form must be filled out with the approval of the Primary Attending Physician². _____

Print name of primary attending

DO NOT use this form if the patient has appointed a health care proxy and the agent is available.

Instead, use Form 2.

DO NOT use this form for a patient who lacks capacity due to mental illness or developmental disability.

Instead, contact the Office of the General Counsel.

I. Initial Determination of Incapacity (SKIP AND PROCEED TO STEP II if a court has already determined that the patient lacks capacity to make health care decisions).

Two Clinicians (the Primary Attending Physician, other attending physicians, nurse practitioners, physician assistants, or licensed House Staff) must make the determination of incapacity **as long as the Primary Attending Physician concurs.**

a. Determination of Incapacity

I have determined to a reasonable degree of medical certainty that the patient lacks capacity to make the decision described as follows: _____.

I found that the cause and extent of the patient's incapacity are _____.

and the likelihood that the patient will regain decision-making capacity is _____.

Clinician³ (print name)

Signature

Date

Time

b. Concurring Determination of Incapacity

I independently concur to a reasonable degree of medical certainty that the patient lacks capacity to make the decision. I found that the cause and extent of the patient's incapacity are _____.

and the likelihood that the patient will regain decision-making capacity is _____.

Clinician³ (print name)

Signature

Date

Time

NOTE: For all treatments not provided at or about the time of the initial determination of incapacity, a confirmation of continuing incapacity must be made. See Step VII.

¹ "Life-sustaining treatment" means any medical treatment or procedure without which the patient will die in a relatively short time, as determined by the Primary Attending Physician to a reasonable degree of medical certainty.

² The Primary Attending Physician is an attending physician who is a member of the Mount Sinai Medical Staff and is directing the patient's care at the time the relevant determination or decision is being made and may also include a covering attending physician directing the patient's care when the Primary Attending Physician is unavailable.

³ The Primary Attending Physician and with the Primary Attending Physician's approval, another physician, nurse practitioner, physician's assistant or licensed house staff.

II. Patient's Prior Decision to Withhold or Withdraw

Prior decisions are specific well-settled decisions which may have been included in the following documents: a MOLST form, health care proxy forms, living wills etc.

a. No Prior Decision

- To the best of my knowledge, the patient has made no prior decisions with regard to withholding or withdrawing life-sustaining treatment. (PROCEED TO SECTION III).

b. Prior Decision (All prior decisions must be recorded in the medical record.)

1. Substance and Form of Prior Decision

a. For prior decisions to withhold or withdraw life sustaining treatment, including DNR, the patient previously made the following decision(s) (Check as applicable):

- Consent to a DNR order (allow for natural death)
- Consent to withhold or withdraw the following other life sustaining treatment(s):
(i.e. intubation*, pressors, antibiotics, dialysis, and artificial nutrition and hydration)
*If intubation is not specified to be withdrawn, it is assumed the patient wants intubation in the setting of respiratory arrest.

b. Form of Decision: (Check one. May be oral, if witnessed, or may be written)

The patient made the prior decision in the following manner:

- Orally during hospitalization in the presence of the two witnesses listed below, both of whom are eighteen years of age or older, at least one of whom is a health or social services practitioner affiliated with the hospital.

Witness 1 ⁴ (print name)	Signature	Date	Time
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Witness 2 ⁴ (print name)	Signature	Date	Time
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OR

- In writing (a MOLST, living will, health care proxy, etc.).

c. Attestation of Clinical Circumstances:

- The patient stated that their consent to withhold or withdraw treatment would become effective under the following specific clinical circumstances:

I have determined that such circumstances are now present, and the consent is now effective.

Clinician ³ (print name)	Signature	Date	Time
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⁴ Witness must be 18 years of age or older.

IV. Notify the Patient⁷ (Check one)

- The patient has been informed of the determination of incapacity, the choice of Surrogate and the health care decision(s) for them; **OR**
- The patient has NOT been informed of the above because there is no indication that the patient can comprehend the information.

Clinician ³ (print name)	Signature	Date	Time
Preferred Language Interpreter Name or Number	Signature	Date	Time

Patient refused interpreter
(check box if applicable)

Telephone/Video Consent (Check box if applicable), Patient/Guardian/Representative**/Interpreter signature not required.

NOTE: If the patient objects to the determination of incapacity, choice of surrogate or health care decision, the patient's wishes prevail unless there is a medical emergency or a court order. (See FHODA Policy [MSHS 206])

V. Clinical Criteria for Withholding or Withdrawing Life-Sustaining Treatment

a. Clinician Opinion on Clinical Criteria (Check whether Criteria A or B applies).

Two Clinicians (the Primary Attending Physician, other attending physicians, nurse practitioners, physician assistants, or licensed house staff) must agree that the clinical criteria have been met as long as **the Primary Attending Physician concurs.**

Criteria A

1. I have determined, to a reasonable degree of medical certainty that:
 - the patient has an illness or injury which can be expected to cause death within six months, whether or not treatment is provided; **OR**
 - the patient is permanently unconscious;

AND
2. It has been determined that treatment would be an extraordinary burden to the patient.

Criteria B

1. I have determined, to a reasonable degree of medical certainty that the patient has an irreversible or incurable condition; **AND**
2. It has been determined that the provision of treatment would involve such pain, suffering or other burden that it would reasonably be deemed inhumane or extraordinarily burdensome under the circumstances.

Clinician ³ (print name)	Signature	Date	Time
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⁷ If the patient was transferred from a mental hygiene facility, notice must also be given to the director of the facility and to Mental Hygiene Legal Services.

VII. Confirming Determination of Continued Incapacity

For all subsequent health care decisions that are not made at or about the time of the determination of incapacity, ongoing confirmation of continued incapacity is required.

I have confirmed that the patient continues to lack decision-making capacity.

Clinician³ (print name)

Signature

Date

Time

VIII. Ethics Process

Should an ethics consultation be helpful, please contact the system operator at 212-241-6500 (See hospital's Ethics Committee policy).

IX. Clinician's³ Order

The Clinician **shall enter** the order to withhold or withdraw treatment in the medical record consistent with the Surrogate's decision **as long as the Primary Attending Physician concurs.**

THIS FORM MUST BE PLACED IN THE PATIENT'S MEDICAL RECORD.

³ Review by the Ethics Review Committee is required and the ERC's decision is binding when: the clinician objects to a Surrogate's decision to withhold or withdraw artificial nutrition or hydration for an adult patient who is not terminally ill or permanently unconscious; OR an emancipated minor makes a decision to withhold or withdraw life sustaining treatment.