



POLICY STATEMENT FOR THE WITHHOLDING OR WITHDRAWING OF LIFE-SUSTAINING MEDICAL TREATMENT (LSMT)

The right to decline medical treatment is not absolute. In promulgating the NJ Advance Directive for Health Care Act (NJADHCA), the legislature listed seven specific circumstances where LSMT could be withheld or withdrawn. Although specifically applicable only when decision-making is effected pursuant to the terms of an advance directive, we suggest that the list appropriately details the universe of situations where forgoing LSMT would ordinarily be acceptable. Accordingly, the Board would anticipate that decisions to forgo LSMT could appropriately be effected in the following circumstances:

1. The proposed LSMT is likely to be ineffective or futile in prolonging life.
2. The proposed LSMT is likely to merely prolong an imminent dying process.
3. The patient is permanently unconscious, as determined by the attending physician and confirmed by a second qualified physician.
4. The patient is in a terminal condition, as determined by the attending physician and confirmed by a second qualified physician.
5. The patient has a serious irreversible illness or condition, and the likely risks and burdens associated with the medical intervention to be withheld or withdrawn may reasonably be judged to outweigh the likely benefits to the patient from such intervention.
6. The patient has a serious irreversible illness or condition, and imposition of the medical intervention on an unwilling patient would be inhumane.
7. The proposed LSMT is experimental, unproven therapy.

A decision to forgo LSMT for an incompetent individual, pursuant to a living will, may only be made if one of the seven situations listed is determined to exist. Theoretically, decisions to forgo LSMT in other situations may be made by competent patients, or even by surrogate decision-makers acting on behalf of an incompetent patient without a living will. We urge that physicians approach any such situations with extreme caution, and seek judicial intervention if any question concerning the reasonableness or appropriateness of the proposed actions exist.

Excerpted from the revised Policy Statement of the New Jersey Board of Medical Examiners, Division of Consumer Affairs, NJ Department of Law and Public Safety, promulgated by Fred M. Jacobs, M.D., J.D., President.