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**FROEDTERT MEM  
LUTHERAN HSPTL**

**9200 W WISCONSIN AVE  
MILWAUKEE, WI 53226**

**Feb. 2,  
2012**

**VIOLATION: PATIENT RIGHTS**

**Tag No:  
A0115**

Based on review of policies and procedures, patients' medical records, and staff interviews the hospital failed to notify 1 of 1 patient of the hospital's Medical Futility Policy prior to implementing the policy. This failure does not promote and protect patients' rights, and potentially affects all patients admitted to the hospital.

Findings include:

The hospital changed patient #1's Full Code status to Do Not Resuscitate without the consent of patient #1's HCPOA (health care power of attorney). (A131)

The hospital failed to ensure patient #1's request to remain a Full Code was honored. (A132)

The cumulative effects of these systematic failures created an environment that does not promote or protect each patient's rights.

**VIOLATION: PATIENT RIGHTS: INFORMED CONSENT**

**Tag No:  
A0131**

\*\*NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY\*\*

Based on staff interview, record review and Policy & Procedure review the hospital changed a patient's full code status to DNR (Do Not Resuscitate) after implementing the Hospital's Medical Futility Policy prior to notifying the patient or the patient's HCPOA in 1 of 7 records reviewed (pt. #1)

Findings include:

On 2-1-12 at 10:40 AM a review of hospital Policy & Procedure (P/P) #CPM.0063 titled, " Do Not Resuscitate DNR " was completed. The P/P is dated 2-11-1988 with the last revision on 8-20-2010. Section 8 under part A states " If, in well grounded judgment of the attending physician and a staff physician consultant, CPR (cardio pulmonary resuscitation) efforts would be futile, the attending physician may write a DNR order after notifying the patient (or other responsible individual if the patient lacks decision making capacity). If there are questions, the physician should consult with the Ethics Committee. Further, if the patient (or surrogate) disagrees, the attending physician should inform Hospital Administration and may consult with the Ethics Committee."

On 2-1-12 at 12:48 PM a review of pt. #1's record was completed. A History & Physical (H&P) dated 1-16-12 shows pt. #1 was admitted on [DATE] from the Emergency Department. Chief complaint listed on the H&P is Altered Mental Status. History of present illness states in part, " Pt. #1 was last admitted ,d+[DATE] thru 11-29-11 for hepatic [DIAGNOSES REDACTED] and [DIAGNOSES REDACTED]. Pt. #1 has diagnosis of [DIAGNOSES REDACTED]. Decided that no further therapeutic interventions would be offered. Pt. #1 has had 21 hospitalizations in past year, 19-21 units of blood in past month have been given. Hematology has broached subject of hospice care and family refuses to consider and wants pt. #1 to remain full code."

Aethics consultation note dated 1-19-12 at 5:16 PM from MD E states in part, "Team concerned that nearly daily transfusions do not provide benefit to patient who is in dying process, while family would like the transfusions to continue. Recommendations- 1. Team to consider making patient DNR, per hospital policy CPM.0063, section 8. 2. Team might review futile care policy, MSP.0007. 3. Team might also consult with Palliative Care for home care option, which might be palliative care rather than hospice care, according to family considerations."

A palliative care consult note dated 1-20-12 at 3:19 PM from MD L states in part, " Hematology has approached subject of hospice care in the past and family had refused to consider and wants pt. #1 to remain full code. "

A progress note dated 1-20-12 at 4:54 PM signed by RN T, states in part, " Updated by MD P, - just completed family meeting - family states that patient will remain full code with continued blood transfusions with family transporting to clinic " .

A progress note dated 1-20-12 at 6:55 PM from MD P states in part, " Family meeting with pt. #1, husband, son, AP K, and primary team, Palliative MD L and palliative team. Discussed progression of disease thus far and how family views patient ' s wishes and future cares patient/family expect. Family states prior to deterioration patient mentioned she would " want to live " . Thus they are wanting patient to remain full code and continue receiving transfusions. " " Also concern for how son would take DNR by futility being initiated and thus patient kept full code. " " Outpatient FH (Froedtert) infusion center is ok with transfusing patient starting next week. " " Incapacity form filled

out as patient currently non-decisional. Husband is activated POA. "

A progress note dated 1-21-12 at 2:31 PM from AP K states in part, "PCP (primary care provider)/GI(gastrointestinal specialist)/heme outpatient to continue discussing hospice care, family unwilling at present to have patient any less than full code. Discussed with hospitalist chief, risk management, ethics, administration and FH. Will leave patient as full code at this time per family wishes, but patient will likely be DNR for futility once we can discuss with family again on Monday. Will also need to discuss with family need for finding appropriate follow-up if able."

A progress note dated 1-22-12 at 11:00 AM from MD P states in part, "At this time administration/ethics is backing decision to change patient to DNR by futility and refusing to provide blood transfusions based on futility. AP K is to call family today to discuss this. Options for family would be to seek another hospital where they may continue transfusions or to go forward with hospice care."

A progress note dated 1-22-12 at 12:56 PM from AP K states in part, "Per GI, there are no other treatments to offer at this time. Hematology is unwilling to offer further blood transfusions as an outpatient. Family has not been receptive to multiple conversations about comfort measures." "In addition, I spoke again with the husband via phone today, then also with patient and husband (via phone in the room) and discussed the progressive nature of illness, no cure, and the input from specialists including MD GI I and MD Hematology Q that no further treatments are being offered, including blood transfusions, the husband (activated HCPOA) very clearly "WILL NOT" support a DNR order. "

On 1-23-12 at 9:30 AM, AP K signed the order/document to change pt. #1's code status to do not resuscitate, MD I signed on 1-23-12 at 9:35 AM. This document has a hand written X in the box next to the following statement, "DO NOT ATTEMPT RESUSCITATION FROM CARDIOPULMONARY ARREST".

On 1-23-12 at 11:30 PM MD P wrote the following order, " hold DNR until team reassesses in am ".

On 1-24-12 at 12:10 AM MD P wrote the following order, " reinstate DNR order ad rep (administration representative) clarified earlier orders. "

On 2-1-12 at 10:57 AM Director of Risk Management (DRM) C, was interviewed. DRM C expressed familiarity with patient (pt.) #1. DRM C explained Registered Nurse (RN) S called DRM C, around 12:00 AM on 1-24-12 to inform DRM C the family of pt. #1 was very unhappy that pt. #1 was made DNR (Do Not Resuscitate). RN S, informed DRM C of plan to talk with family regarding the change in pt. #1's code status. An email from RN S dated 1/24/2012, at 6:27 a.m. placed in pt. #1's record indicates that RN S and MD V went to talk to pt's husband and son on 1/24/2012 at 0010. Husband and son were upset that pt. had been made DNR. Husband acknowledged phone call early in the day on 1/23, from MD K about pt. being a "case of futility." Husband stated no one told him that pt. would be DNR status and he did not authorize DNR status. RN S and MD V told husband that the ethics committee ordered DNR based on futility.

During the interview with DRM C on 2-1-12 at 10:57 AM DRM C explained, RN S called DRM C on 1-24-2012 around 1:00 AM - 1:30 AM. RN S called to report all issues with pt. #1's family were resolved. At 4:30 AM RN S called DRM C the last time to report pt. #1's family called 911 to have pt. #1 transported to another hospital. DRM C expressed awareness of the ethics committee being involved in the decision to change pt. #1's code status from a full code to DNR. DRM C explained the policy used to make this change is used as a last resort.

On 2-1-12 at 11:09 AM pt. #1's Attending Physician (AP) K was interviewed. AP K, stated the family was given the opportunity to read the medical futility policy and the DNR policy but refused. AP K, stated when the decision is made to invoke the DNR policy and or the medical futility policy is when patients and families are notified verbally. AP K, agreed this is not documented in the record. AP K explained Husband H, was notified of the change in DNR status via a telephone call from AP K. AP K stated he did not document the fact that the husband was notified of the DNR change.

On 2-1-12 at 2:35 PM an interview with the Chief Medical Officer (CMO) R was completed. CMO R expressed unfamiliarity with pt. #1's case. CMO R explained that when the decision is made to invoke the DNR policy it is done with the best interest of the patient in mind. CMO R stated that family needs to know (about the invocation of policies) before the invocation. " You wouldn't invoke this policy without alerting family and pt. " " Maybe the policy needs to be specific to notifying patients and families. "

On 2-1-12 at approximately 3:24 PM an interview with MD Director of Ethics Committee (DEC) D was completed. Regarding pt. #1's code status changed from full code to DNR against the family's wishes. MD DEC D stated, "pts. can ask for all sorts of interventions, pts can't demand non beneficial interventions, pts. don't have the right to have whatever they want- so this is not a pt. rights issue."

Pt. #1 was admitted to the hospital on 1-16-2012. The History and Physical dated 1-16-2012 showed family wanted pt. #1 to remain a full code. Documentation in the record shows that on 1-20-2012, 1-21-2012, 1-22-2012, 1-23-12 and 1-24-2012 pt. #1's husband / Power of Attorney expressed pt. #1 was to remain a full code.

***VIOLATION: PATIENT RIGHTS: ADVANCED DIRECTIVES***

**Tag No:**  
A0132

Based on record review and policy & procedure review the hospital failed to notify patients upon admission that the hospital's Medical Futility Policy fails to ensure the patients' right to have the hospital comply with their advance directives. The hospital failed to ensure the patient's Health Care Power of Attorney's request for pt. #1 to remain a Full Code, was honored in 1 of 7 records reviewed (pt. #1).

Findings include:

On 2-1-12 at 9:30 AM a review of the patient information folder was completed. Page #7 under heading, "Does my health care provider have to follow my advance directives?" the document states, "Some health care providers and physicians may have policies or beliefs which prohibit them from honoring certain advance directives. It is important to discuss your advance directives with these people to make them aware of your wishes and to determine if they will honor your advance directives. If a physician or provider is unwilling to honor your wishes, the physician or provider must make a good faith effort to refer you to a physician or provider who will meet your needs. " The patient information folder, that is given to all patients at admission does not contain information regarding the hospital's policies titled Do Not Resuscitate, #CPM.0063 or Futility Policy, #MSP.0007.

On 2-1-12 at 10:40 AM a review of hospital Policy & Procedure (P/P) #CPM.0063 titled, "Do Not Resuscitate DNR"

was completed. The P/P is dated 2-11-1988 with the last revision on 8-20-2010. Section 8 under part A states "If, in well grounded judgment of the attending physician and a staff physician consultant, CPR efforts would be futile, the attending physician may write a DNR order after notifying the patient (or other responsible individual if the patient lacks decision making capacity). CPR efforts should be considered futile if they cannot be expected to either restore cardiac or respiratory function to the patient or to achieve the expressed goals of the decisional patient. If there are questions, the physician should consult with the Ethics Committee. Further, if the patient (or surrogate) disagrees, the attending physician should inform Hospital Administration and may consult with the Ethics Committee."

On 2-6-12 at 2:00 PM a review of the hospital policy titled, Advance Directive #CPM.0022 was completed. Section D - Policies Applicable to Powers of Attorney for Health Care #7 states, "A physician on the hospital's staff who is not willing to comply with a valid power of attorney for health care shall attempt, in good faith, to transfer the patient to another physician who will comply."

A progress note dated 1-23-12 at 12:20 from MD P states in part, "Yesterday husband said he would not agree to changing code status to DNR. When offered option of changing to different medical system (outside Froedtert), husband declined offer. AP K again discussed this am again with husband that herself and MD GI I would sign DNR by futility form. Husband and son aware now, stating they may file lawsuit in this regard."

On 1-23-12 at 9:30 AM, AP K signed the order/document to change pt. #1's code status to do not resuscitate, MD I signed on 1-23-12 at 9:35 AM. This document has a hand written X in the box next to the following statement, "DO NOT ATTEMPT RESUSCITATION FROM CARDIOPULMONARY ARREST".

On 1-23-12 at 11:30 PM MD P wrote the following order, "hold DNR until team reassesses in am".

On 1-24-12 at 12:10 AM MD P wrote the following order, "reinstate DNR order ad rep (administration representative) clarified earlier orders. "

A progress note dated 1-24-12 at 4:51 AM from RN U, states in part, "Family upset at begin of shift when they learned that patient was a DNR. Patient's son cut off of patient her ID band with purple on it indicating she is a DNR, he was angry and saying he will "sue the hospital if anything happens to her" and stated he wanted her to be a full code. Patient's husband in room and agreed with son." "order to hold DNR status until team to re evaluate in am." "AD Rep S, security and MD V here to clarify DNR status with patient's family. Patient husband and son in room." "Denies being told patient status to be DNR. Patient code status remains DNR and family is now aware." "son is going to call 911", "Ambulance here and patient left to go to West Allis Memorial"