

Resolution of the 12/15/2020 Emergency Joint Meeting of the Long Term Care Community Ethics Committees at Vivage and the Pikes Peak Area Council of Governments Regarding Admission of the COVID-19 Vaccine to the following cases:

- A. The unfriended* (patients who lack the capacity to make their own medical decisions) and have no “interested person” (family member or close friend) to speak on their behalf.
- B. Individuals where due diligence was undertaken to reach “interested persons”, MDPOAs, Medical Proxy or Guardian that was unsuccessful.

*Please note unfriended and unbefriended are interchangeable.

The ethical principles governing our deliberations include:

- Autonomy v. Utilitarianism – with primacy given to honoring the autonomy of the resident through due diligence to determine the wishes of the resident based upon direct sources (written advance directives and expressed wishes of the resident) and if none, then collateral sources.
- Beneficence and Non-Malevolence in seeking the best interest of the resident for physical, mental, and social well-being.
- Analysis of the benefit v. burden in considering the risks of vaccinating v. contracting COVID-19 or facing extended social restrictions due to regulations to prevent community spread.
- Additionally, special consideration should be given to honor any resident with spiritual or religious beliefs that does not support immunizations or medical treatment. In such cases, the interdisciplinary team (IDT) should share with said resident or “interested persons who represent them” the physical and psycho-social risks associated with receiving or not receiving the vaccine.

A) All residential facilities are urged to direct members of their interdisciplinary teams (IDT’s) to begin determining who in their care is “unfriended” and to engage in due diligence to determine what their autonomous will might be through the review of:

- Any historical advance directives,
- MOST forms,
- previous resident decisions or actions regarding other vaccinations or medical procedures to prolong life,
- or the conscientious reflections of members of the IDT with close relationships and awareness of the resident.

We recommend an urgent proactive review by the IDT in each facility of any “unfriended” residents to provide and to document the process used to determine an informed conclusion about the will of the resident and to offer guidance to the attending physician or a proxy decision maker for use of the COVID-19 vaccine.

In the case of “unfriended” residents, if it is the informed conclusion of the IDT and attending physician that the individual should receive the vaccine, the attending physician or proxy decision maker may consent, or if the attending physician is unwilling or unable to do so, he/she will appoint the Medical

Director as a proxy decision-maker, either verbally or in writing, for the limited purposes of deciding whether to consent to the COVID-19 vaccine. If the Medical Director is unwilling or unable to do so, the Alternate Medical Director will act as the proxy decision-maker for this limited purpose. If a conclusion is not met through this process, then referral to a Long Term Care Ethics Committee is recommended.

In addition, the facility should:

- 1) Document in the resident's medical record the process to review medical records and to discern the prior intent of the unfriended resident.
- 2) In the event a proxy decision-maker is appointed, document in the resident's medical record the identity of the proxy decision-maker and that the attending physician appointed the proxy decision-maker for the limited purpose of deciding whether to consent to the COVID-19 vaccine, and that time is of the essence given the severity of COVID-19 effects on compromised individuals and the limited supply or availability of the COVID-19 vaccine.
- 3) In extreme cases where the process recommended above does not lead to a resolution, seek the advice of a Long Term Care Ethics Committee by contacting the co-chair of the Colorado Long Term Care Community Ethics Committee at Vivage (hcarwile@vivage.com) or the co-chair of El Paso and Teller County Community Ethics Committee (LMcGinnis@ppacg.org) to request review by a Long Term Care Ethics Committee. If after consultation with this committee including the ethicist, it is determined the vaccine should be authorized, the ethics chair will serve as physician signator.

B) In cases where the facility is unable to reach and get a response from Proxy, MDPOA or Guardians, it is recommended to document all attempts to reach such persons, and if possible, to provide written communication to such persons. If a Proxy, MDPOA or Guardian is not available through multiple attempts, then the same process described above should be implemented to make the decision through the Attending Physician, to the Medical Director, then the Alternate Medical Director, followed by LTC Ethics Committee to make the decision through the Attending Physician, Proxy Decision-Maker or the Ethics Committee.