Blossom View Policy and Procedure for Ethics Review Committee

**Mission Statement**: Blossom View is committed to soliciting/identifying and honoring each individual resident’s medical treatment preferences. As such the owners, the administration and the staff support and promote an active Ethics Review Committee.

**Policy Statement**: Per the New York Stated Family Health Care Decisions Act (FHCDA), Blossom View establishes an Ethics Review Committee with written policies outlining the function, composition, detailed procedures for operation. The ERC will provide an impartial mechanism to resolve disputes and provide oversight of sensitive decisions regarding patient treatment preferences.

The Ethics Review Committee will gather upon request and once per quarter. “The ethics review committee shall consider and respond to any health care matter presented to it by a person connected with the case.” Section 2994 m.2.(a). The Committee will comply with the laws and regulations of New York State related to advance directives and resident treatment preferences.

I. **Function and Authority of Ethics Review Committee (ERC)**

   A. **Required Functions**
      1. Resolving Disputes: The committee will act in a non-binding, advisory role to clarify ethical issues, offer recommendations, and/or assist to resolve disputes initiated by any person with concern(s) connected to the case.
      2. Surrogate Decision to Withhold or Withdraw Life-Sustaining Treatment (compliance with FHCDA): The committee is mandated to review resident cases in which there is a surrogate decision to withdraw or withhold life sustaining treatment other than CPR for a resident who is not terminally ill or permanently unconscious. In such cases the committee will comply with standards outlined in the Family Health Care Decisions Act. *

   B. **Authority**
      1. Advisory Role: The committee’s response to resolving disputes is advisory and non-binding.
      2. Binding Decisions: When the committee reviews a surrogate decision-maker’s decision to withhold or withdraw life-sustaining treatment, the committee has the authority to determine whether the surrogate’s decision meets the standards in FHCDA.

   C. **Other Functions**
      1. Education - The ERC as a whole may identify and implement staff or resident/family training as it relates to advance directives and resident treatment preferences.
      2. Policy development – The ERC will review policies and procedures as first order of business on an annual basis to support the mission of the Ethics Review Committee at Blossom View.
      3. Operational Review – The ERC committee and/or its individual members will review all Blossom View policies and procedures that relate to the
 operational implementation of resident advance directives and treatment preferences, including but not limited to medical orders, forms, compliance, quality assurance and documentation.

4. Informal review or meeting may be requested by any resident, family/representative or staff to address a question or concern. Community requests will also be accepted as time permits. Such a request could involve the committee as a whole or be provided by individuals of the committee. These informal meetings are not recorded or written.

II. Training for ERC members
Each ERC member will receive an up to date training manual that outlines the laws of New York and the policies of Blossom View in regards to advance directives, establishing and implementing treatment preferences and ethics committee roles, responsibilities and authority. Individual and group training will be offered as needed to maintain the knowledge and skill level expected of members.

Comprehensive information regarding advance directives, treatment preferences, regulations/legislation, palliative care and ethics committees is available to ethics committee members at www.CompassionAndSupport.org website. This site is considered to be the primary resource for reference, training materials, forms and educational opportunities.

All ERC committee members must be familiar with the FHCDA. Knowledge levels will vary. In all cases, however, the Committee facilitator and at least one other person on the Committee must have extensive knowledge of the laws of NYS in regards to advance directives, FHCDA, ethics committee and palliative care.

III. Membership
The ERC will maintain an interdisciplinary composition consisting of persons who have a demonstrated interest in or commitment to long term care resident rights, and the legal, medical and psychosocial needs of the elderly. All ERC members will sign a pledge of ethics.

A. Blossom View will recruit and maintain a roster of Ethics Committee members eligible to serve as cases are requested. These members will be recruited and categorized to satisfy the required configuration outlined in the FHCDA. (see official roster sheet attached)

B. The initial committee membership will be recruited by the administrator. In case of turnover or to increase the depth of eligible members to serve, any person may volunteer or be recommended to the committee if they fulfill one of the member categories and are willing to participate in necessary training. New members recommended to the ERC must be approved by the ERC.

C. The resident council will be approached at least twice per year to encourage recommendations from residents for persons to serve on the ERC committee.

D. In mandated cases ERC members connected with the case may not participate as an ethics review committee member in the consideration of that case.
E. Most committee members will be selected from staff/contractors that work for the facility. Community persons will be actively recruited by the Administrator, the Director of Social Work and / or committee facilitator (s).

IV. Procedures

Committee facilitator. This position will serve to monitor recruitment, insure the committee functions effectively and efficiently for quarterly meetings and when called to review a case. The Facilitator will also insure timely notifications are made before and after ERC meetings. The Facilitator may or may not be a member of the ERC for both binding and advisory cases.

A. The ERC will respond promptly when asked to review a case. In most cases the meeting will be arranged as soon as a full complement committee and the resident/persons connected with the case can assemble. ERC committee meetings will be held during daytime working hours. Urgent cases that have a need for immediate attention will be expedited.

B. Informal dispute resolution attempts through Blossom View policy and procedures for determining patient treatment preferences should have been exhausted prior to referral to the ERC. However, this process is not required prior to referral.

C. In each case the Committee will notify all persons connected to the case including but not limited to the patient, surrogates, surrogate advisors, attending physician, administrator, and Medical Director of the pending case. Contacts made will include pending case details, Ethics Committee Policy and Procedures, date and time of ERC meeting and members attending the case review.

D. The 5-7 member ERC and persons connected to the case will meet. Persons connected with the case may invite any advisors they feel pertinent to attend and participate in the meeting. Any ERC committee member may also invite additional persons they feel important to attend.

E. All written communication regarding a case will be entered on the Ethics Committee Documentation Form. Addendums will be noted on this form and included in the ERC case record.

F. The ERC written case record response to the presented issue for review will be signed and shared with persons connected to the case and placed in the treatment preferences section of the medical chart.

G. Treatment changes decided at the ERC are not implemented until after the meeting and all surrogates and persons connected with the case are notified.

H. Binding decisions rendered at the ERC meetings must be fully endorsed by all 5-7 committee members assigned to the case. Should the facility or the patient/patient representatives disagree with the ERC finding, or the issue is unresolved, the case can be referred to the NYSDOH.

I. Non-binding decisions are rendered at the ERC meetings when the committee acts to resolve disputes. The committee will provide the counsel sought by those who initiated the case.

V. Confidentiality
A. Proceedings and Records of the ERC process are not subject to disclosure or inspection. No ETC member shall testify or provide admissible evidence in any legal action.

B. Exceptions

1. Any unresolved decisions to withhold or withdraw medical treatment may be referred to the NYS Health Department. Proceeding and records would be shared with the Department.
2. Patients and surrogates may disclose information from the ERC process.
3. Special populations: the State Commission of Quality of Care and Advocacy for Persons with Disabilities or any person or agency with or under contract with the Commission, may request information from the nursing home in accord with the provisions of the Mental Hygiene Law.

VI. Immunity and Liability

A. Members and consultants to ERC are protected from criminal or civil liability and shall not be deemed to have engaged in professional misconduct for action undertaken reasonably and in good faith in accord with the FHCDA.

B. If Blossom View and/or the attending physician refuses to honor a health care decision by a surrogate that is consistent with FHCDA standards for that decision, Blossom View is not entitled to compensation for treatment, services or procedures refused by the surrogate except;
   i. When Blossom View or the physician refuse based on moral or religious conscience
   ii. While the ERC is considering a matter assuming it was promptly addressed and considered by the ERC
   iii. In the event of a dispute between individuals on the surrogate list or
   iv. If the physician or Blossom View prevails in any litigation about the surrogate’s decision to refuse treatment, service or procedure.
Pledge of Ethics

I _________________________________, have agreed to participate as an active member of the Ethics Review Committee at Blossom View: A Nursing and Rehabilitation facility in Sodus NY.

As a member I pledge to:

- Promote each individual’s right to self-determination
- Be a contributing member as cases are reviewed
- Act in a professional and compassionate manner with my colleagues, patients, families and anyone else involved in a case.
- Educate myself regarding the laws of New York State in regards to resident treatment preferences and insure the spirit and application of the laws are applied
- Proceed in each case impartially, keeping mind the best interests of the resident as a compass for direction

I have read the Policy and Procedure for the Ethics Review Committee and understand all of the contents,