

“Surrogate Responsibilities”

GUIDELINES FOR HEALTHCARE SURROGATES / MEDICAL POWER OF ATTORNEY REPRESENTATIVES

You have been named Healthcare Surrogate / Medical Power of Attorney Representative for _____ . Please understand that your role is to make decisions the way this person would make them if he or she were able. If you do not want this responsibility, please contact Dr. _____.

What is a Health Care Agent, also called Medical Power of Attorney (MPOA) Representative ?

A Health Care Agent or MPOA representative is a person chosen by an individual to make medical decisions in the event that the individual is unable to make those decisions for her or himself. The representative’s name has been written on the individual’s Health Care Agent form or the MPOA form, which has been witnessed by two people/or notarized, while the patient was of sound mind.

What is a Healthcare Surrogate?

A healthcare surrogate is a person chosen by a physician to make decisions for an individual who did not name a health care agent or a medical power of attorney representative and who is unable to make decisions for him or herself. Tennessee’s Health Care Decisions Act describes a priority order that may be used for choosing surrogates. Generally, the person that is “best qualified” should be selected as a surrogate. The following criteria should be considered when determining who is best qualified to serve as a patient’s surrogate: a) whether a person will be better able to make decisions according to the patient’s wishes or in the patient’s best interests; b) a person’s regular contact with the patient prior to and during the illness; c) a person’s demonstrated care and concern for the patient; d) being able to visit the patient during his or her illness; and e) being able to engage in face-to-face contact with physicians and nurses to make decisions about the patient’s care.

When do Health Care Agents or MPOA Representatives and Healthcare Surrogates make decisions?

The representative or surrogate makes decisions only if and when a physician determines that the patient is unable to make decisions.

What authorities do the Health Care Agent or MPOA Representatives and/or Healthcare Surrogates have in Tennessee?

They can:

- Access the patient’s medical records
- Release medical records to third parties
- Make healthcare decisions on behalf of the of the patient and according to any directions listed on Health Care Agent or MPOA or surrogate forms
- Make decisions regarding autopsy and organ /tissue donation

What responsibilities do Health Care Agents or MPOA Representatives and Healthcare Surrogates have in Tennessee?

They should:

- Make decisions in accordance with the patient's wishes, if such wishes are known.
- Make decisions based in the patient's best interests if the patient's wishes are not known.

How are a patient's best interests determined?

The Health Care Agent or MPOA representative or surrogate should seek advice from the medical treatment team. The benefits and risks for each possible procedure should be explained so that the Health Care Agent or MPOA representative or surrogate can participate in decisions for the patient. Determining best interests for another person is very hard. You should always try to look at things through that person's eyes. Don't just do what you would do if you had this sickness. Think about their medical condition and what the patient would say about it and the treatment they would want for it. You should talk with the treatment team and get their recommendation. Ask what are the things that could happen if you agree/disagree to a recommended medication/treatment/procedure. Ask if the person will get better. Ask what "better" means. (Back to the life they had before or out of intensive care but in a permanently weakened condition). Ask how much pain they are in and what could be done to make it hurt less. Ask any other questions you think this person would want to know before making a decision. Think about what you have learned and make the decision based on what the person would want to happen.

What are the limitations of the Health Care Agent or MPOA Representative or Healthcare Surrogate?

- Specific directions and limits as written by the patient on Health Care Agent or Medical Power of Attorney or Living Will forms
- Authority stops if the patient becomes able to make his or her own decisions
- The patient's wishes rather than the wishes of the Health Care Agent or MPOA or surrogate
- The requirement that the medical team follow the patient's wishes in cases of disagreement between the Health Care Agent or MPOA representative or surrogate wishes and what the patient wrote on an Advance Directive or Living will.