

Overview of a Medical Power of Attorney or Health Care Surrogate's Responsibilities

The following information may help you clarify your new duties as a medical power of attorney or a healthcare surrogate:

When do I start to make health care decisions?

You may start making health care decisions after the doctor has judged the person unable to make such decisions and named you as the decision maker.

Can I make financial decisions?

No. A Medical Power of Attorney or a health care surrogate does not have the power to make financial decisions for the person.

What types of health care decisions can I make?

You can give, withhold or withdraw informed consent to any kind of health care. Examples include surgical treatments, life-prolonging interventions, psychiatric treatment, nursing care, hospitalization, and treatment in a nursing home, hospital, hospice or home health care.

Do I have the right to access the person's medical records?

Yes. You can access the person's medical records, but only for the purpose of making health care decisions.

How should I make decisions on behalf of the person?

You must follow the stated directions set forth in the person's Living Will or Medical Power of Attorney. If these documents do not exist or do not provide guidance on the decisions to be made, you should act using the guidelines below:

- 1) Act in a way that agrees with the person's wishes, including religious and moral beliefs;
- 2) Act in a way that agrees with the person's best interests; and
- 3) Act only after you have reviewed and understood what the best interests of the person are.

What types of decisions am I not allowed to make?

- 1) You cannot make financial decisions or change a legal document executed by the person before he or she became incapacitated.

- 2) You cannot stop other persons from visiting the person except under certain circumstances.
- 3) You cannot do things that the person did not wish or desire.
- 4) You cannot change the person's decision to donate organs or tissues.
- 5) You may not cancel most pre-need funeral contracts except in special situations.

When does my authority to make decisions end?

Your authority ends when the person dies except for decisions about autopsy, funeral arrangements, cremation and organ or tissue donation.

For more detailed information, please review W. Va. Code § 16-30-1 et seq.

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