

WHAT IF THE PERSON OR OTHERS DISAGREE WITH DECISIONS I MAKE AS A HEALTH CARE SURROGATE?

The person, his or her family, the health care facility, the physician, or any other interested person affected by the Surrogate's decisions can ask the court to intervene if:

- Decisions are not in accord with the person's known desires;
- The Advance Directive is vague
- The Surrogate was not properly named or the designation of the Surrogate has been revoked;
- The Surrogate has failed to perform his or her duties or the Surrogate has become incapable of serving due to illness or incapacity;
- Surrogate has abused powers
- The person has sufficient capacity to make his or her own health care decisions

WHAT KIND OF LIABILITY DO I, AS THE HEALTH CARE SURROGATE, HAVE IN CARRYING OUT THE PERSON'S PREFERENCES AS EXPRESSED THROUGH HIS OR HER ADVANCE DIRECTIVE?

The Health Care Surrogate has immunity under the law when who he or she makes a health care decision on a person's behalf, that is reflected in the person's Advance Directive. In such cases, you are not subject to criminal prosecution or civil liability for such action.

HOW CAN I GET MORE INFORMATION ABOUT MENTAL HEALTH ADVANCE DIRECTIVES AND SERVING AS A HEALTH CARE SURROGATE?

Return Address, Postage Information, and room for mailing address.

**HOW TO BE A
GOOD MENTAL
HEALTH CARE
SURROGATE**



**Mental Health
Advance Directives**



WHAT IS A MENTAL HEALTH ADVANCE DIRECTIVE?

A Mental Health Advance Directive is a legal document that allows a person to state his or her preferences regarding mental health care before a crisis occurs when the person may be unable to understand treatment choices and make decisions.

An Advance Directive should name a Health Care Surrogate to make mental health care decisions for the person in the future time if he or she isn't able to make their own decisions. The person may also name an alternate surrogate to assume these duties if the original surrogate is unwilling or unable to perform his or her duties.

An Advance Directive does not:

- Require a specific form
- Need to be prepared by an attorney
- Require a notary for signature of the person, witnesses, or health care surrogate

CAN A PERSON CHANGE HIS OR HER MENTAL HEALTH ADVANCE DIRECTIVE?

A competent person can change or revoke an Advance Directive at any time by:

- Signing and dating a written statement revoking the directive
- Destroying the Advance Directive
- Telling others he or she wants to change or revoke the advance directive
- Doing a new Advance Directive
- Stating a time of termination on the Advance Directive

WHAT IS A HEALTH CARE SURROGATE?

A Health Care Surrogate is the person chosen by a person to consent to treatment included in his or her Advance Directive or the decisions which he or she believes the person would have made under

the circumstances if capable of doing so. The Health Care Surrogate can also access the person's clinical records and consent to the release of information and medical records to appropriate persons, and apply for public benefits on the person's behalf.

Unless you are given written permission or the court orders it, you can't consent to electroconvulsive therapy (ECT), experimental treatments, or certain other procedures on behalf of the person.

You also cannot have the person admitted to a facility on a voluntary basis. However, if the person is admitted on an involuntary basis, the Surrogate may make treatment decisions for the person, if he or she is determined to be incapacitated.

HOW CAN I BE A GOOD MENTAL HEALTH CARE SURROGATE?

Be knowledgeable

- Know your role
- Represent the wishes of the person on whose behalf you are acting
- Consent to or refuse treatment based on those wishes, not your own
- You are not a "figurehead", signing off on the provider's decisions!

Understand your authority and responsibility

- Read the Advance Directive of the person you are representing
- Discuss treatment options and scenarios with that person to familiarize yourself with the person's general and specific wishes

Don't be afraid to ask questions

- You have the right to access information from the provider about the person you are representing.
- Get as much information as needed so you can make fully informed decisions

Ask for full explanations

- If there is anything that you don't understand, ask staff to explain them in terms that you can understand
- If you feel uncomfortable – like you don't have "the whole picture", say so! Don't be pushed into a decision ... just as you wouldn't make a decision for yourself before you felt you had all the information you needed

Be Firm and Persistent

- Don't be bullied
- Don't trust phrases like, "Trust me..."
- Don't hesitate to insist that you be fully heard
- Don't be afraid to argue for what the person is entitled to!

Keep Your Cool

- Getting upset and/or yelling only alienates providers, undermines your authority and credibility, and decreases your effectiveness as an advocate

WHO SHOULD HAVE COPIES OF THE PERSON'S COMPLETED MENTAL HEALTH ADVANCE DIRECTIVE?

The person should be sure the completed Mental Health Advance Directive can be quickly located in case of an emergency. It should be given to you as the Health Care Surrogate and to the Alternate.

The person should also consider putting the completed advance directive with his or her:

- Family
- Physician
- Case manager
- Mental health facility
- Any other trusted person or organization

