

FAMILY CONSENT LAWS COVERING ROUTINE MEDICAL CARE

1. ALASKA

Alaska Stat. §13.52.030

- Individual orally designated by patient
- Spouse
- Adult child
- Parent
- Adult Sibling
- Close friend

Mental health treatment limitations.

Majority rule for adult children, parents, or siblings; and if deadlock, then primary physician decides.

2. ARIZONA

Ariz. Rev. Stat. Ann. §36-3231

- Spouse
- Adult child
- Parent
- Domestic partner, if unmarried and no other person has assumed any financial responsibility for the patient.
- Sibling
- Close friend
- **Att. physician in consult with ethics committee or, if none, 2nd physician**

Mental health treatment limitations

Majority rule for adult children. Judicial recourse for all others.

3. CALIFORNIA

Cal. Probate Code §4711 – 4716 (West 2007)

An individual orally designated as surrogate.

Note: The surrogate has priority over a concurrently appointed health care agent during the period the surrogate designation is in effect. Effective “only during the course of treatment or illness or during the stay in the health care institution when the designation is made, or for 60 days, whichever period is shorter.”

N/A to civil commitment, electro-convulsive therapy, psychosurgery, sterilization, and abortion.

4. COLORADO

Colo. Rev. Stat. Ann. §15-18.5-101 to -103

The following "interested persons" must decide who among them shall be surrogate decision-maker:

- Spouse
- Parent
- Adult child
- Sibling
- Grandchild
- Close friend

Consensus required on selection of the surrogate.

5. DISTRICT OF COLUMBIA

D.C. Code 1981 sec.21-2210

- Spouse or domestic partner
- Adult child
- Parent
- Adult Sibling
- Religious superior if in religious order or a diocesan priest
- Close friend
- Nearest living relative

N/A to abortion, sterilization, or psycho-surgery, convulsive therapy or behavior modification programs involving aversive stimuli are excluded

6. FLORIDA

Fla. Stat Ann. §765.401 and §765.113

- Spouse
- Adult child
- Parent
- Adult Sibling
- Close adult relative
- Close friend
- Licensed clinical social worker selected by bioethics committee.

N/A to abortion, sterilization, electroshock therapy, psychosurgery, experimental treatment not approved by IRB, or treatment during pregnancy

Majority rule for adult children or siblings

7. GEORGIA

Ga. Code Ann. §31-9-2

- Spouse; or any parent, adult or minor of minor child
- Person standing in loco parentis for minor child or ward
- Adult child
- Parent
- Sibling
- Grandparent

Not explicitly applicable to *refusals* of treatment

8. HAWAII

Hawaii Rev. Stat. §§327E-2 and E-5

- An individual orally designated as surrogate. If none, the following "interested persons" must decide who among them shall be surrogate decisionmaker:
- Spouse
- Reciprocal beneficiary
- Adult child
- Parent
- Adult Sibling
- Adult Grandchild
- Close friend

Consensus required on the selection of the surrogate

9. IDAHO

Idaho Code § 39-4503

- Spouse
- Parent
- A relative representing self as appropriate, responsible person
- Other individual representing self to be responsible for the person's health care

10. ILLINOIS

755 ILCS 40/1 to 40/65, specifically 40/25

- Spouse
- Adult child
- Parent
- Adult Sibling
- Adult grandchild
- Close friend
- Guardian of the estate

N/A to admission to mental health facility, psychotropic medication or electro-convulsive therapy

Majority rule for children, siblings and grandchildren.

11. INDIANA

Ind. Code Ann. §16-36-1-1 to -14

Any of the following:

- Spouse
- Parent
- Adult child
- Adult Sibling
- Religious superior if the individual is a member of a religious order

12. KENTUCKY

Ky. Rev. Stat. §311.631

- Spouse
- Adult child
- Parents

- Nearest adult relative

Majority rule for adult children and nearest relative.

13. MAINE

Me. Rev. Stat. Ann tit. 18-A, §5- 801 to §5-817. specifically §5-805.

- Spouse
- Adult in spouse-like relationship
- Adult child
- Parent
- Adult sibling
- Adult grandchild
- Adult niece or nephew
- Adult aunt or uncle
- Adult relative familiar with patient's values
- Close friend

N/A to denial of surgery, procedures, or other interventions that are deemed medically necessary.

Admission to mental health institution

Majority rule if more than one member of any class assumes authority.

Provider may refer them “to a neutral 3rd party for assistance in resolving the dispute”

14. MARYLAND

Md. Health-Gen.Code Ann., §5-605 (2007)

- Spouse
- Adult child
- Parent
- Adult sibling
- Close friend or relative who has maintained regular contact with the patient

N/A to sterilization or treatment for mental disorder

If in hospital or nursing home, refer to ethics committee If elsewhere, consensus required

15. MISSISSIPPI

Miss. Code Ann. §§41-41-201 to -229,
particularly §§41-41-203(s), -211 and -215(9)

- Individual orally designated by patient
- Spouse
- Adult child
- Parent
- Adult sibling
- Close friend
- **Owner, operator, or employee of residential long term care institution (except withholding or withdrawing life sustaining treatment)**

Admission to mental health institution.

Majority rule if more than one member of any class assumes authority

16. NEW MEXICO

N.M. Stat. Ann. 1978 §24-7A-5

- An individual designated as surrogate
- Spouse
- Individual in long-term spouse-like relationship
- Adult child
- Parent
- Adult sibling
- Grandparent
- Close friend

Admission to mental health facility

Majority rule if more than one member of any class assumes authority

17. NORTH DAKOTA

N.D. Cent. Code §23-12-13 (2007)

- Spouse who has maintained significant contacts with incapacitated person
- Adult children who have maintained significant contacts with incapacitated person
- Parents, including stepparent who has maintained significant contacts with incapacitated person
- Adult siblings who have maintained significant contacts with incapacitated person
- Grandparents who have maintained significant contacts with incapacitated person

- Adult grandchildren who have maintained significant contacts with incapacitated person
- Close adult relative or friend who have maintained significant contacts with incapacitated person

Not explicitly applicable to refusals of treatment, but nevertheless should be applicable.

N/A to sterilization, abortion, psychosurgery, and admission to a state mental facility for > 45 days

18. PENNSYLVANIA

Pa. Stat. Ann. tit. 20, §5461

- Spouse
- Adult designated by others on this list, without objection by anyone on list
- Adult child
- Parent
- Adult sibling
- Adult grandchild
- Close friend

Note: Individual may provide for a different order of priority by signed writing.

Pregnancy limitation

Majority rule if more than one member of any class assumes authority

19. SOUTH CAROLINA

S.C. Code Ann. §44-66-10 to -80

- Person given priority to make health-care decisions for the patient by another statute
- Spouse
- Parent or adult child
- Adult sibling, grandparent, or adult grandchild
- Other close relative
- Person given authority to make health-care decisions for the patient by another statutory provision

N/A if patient's inability to consent is temporary and delay of treatment will not result in significant detriment to the patient's health

Consensus required

20. SOUTHDAKOTA

S.D. Codified Laws §34-12C-1to -8

- Spouse
- Adult child
- Parent
- Adult sibling
- Grandparent or adult grandchild
- Aunt or uncle or adult niece or nephew
- Adult cousin
- Close friend

(An authorized surrogate may delegate authority to another person in same or succeeding class)

Consensus required

21. TENNESSE

Tenn. Code Ann §68-11-1801 to –1815, particularly §68-11-1806

Supervising health care provider selects from the following order of preference under criteria provided:

- Individual designated by patient
- Spouse
- Adult child
- Parent
- Adult sibling
- Other adult relative
- Close friend
- **Primary Physician, in consultation with ethics committee or independent 2nd physician**

Any matter governed by the mental health code.

22. TEXAS

Tex. [Health & Safety] Code Ann. §166.039

Physician and:

- Spouse
- Adult children
- Parents
- Nearest relative

- **Att. Physician, with concurrence of independent 2nd physician or physician member of ethics committee**

Pregnancy limitation

Tex. [Health & Safety] Code Ann. §313.004

Special provision applicable to patients in home & community support services or in a hospital or nursing home

- Spouse
- Adult child (who has the waiver and consent of all other qualified adult children of the patient to act as the sole decision-maker)
- Majority of the patient's reasonably available adult children
- Parents
the individual clearly identified to act for the patient by the patient before the patient became incapacitated
- Nearest living relative
- **Member of the clergy.**

Voluntary inpatient mental health services;

Electro-convulsive treatment; or

Majority rule, in the case of adult children

23. VIRGINIA

Va. Code §54.1-2986

- Spouse
- Adult child
- Parents
- Adult sibling
- Other relative in the descending order of blood relationship

N/A to non-therapeutic sterilization, abortion, psychosurgery, or admission to a mental retardation facility or psychiatric hospital

Majority rule if more than one member of any class assumes authority

24. WASHINGTON

Wash. Rev. Code Ann. §7.70.065

- Spouse or registered domestic partner
- Adult children
- Parents
- Adult siblings

Not explicitly applicable to refusals of treatment, but nevertheless should be applicable.

Consensus required

25. WEST VIRGINIA

W. VA. Code Ann. §16-30-8

Attending Physician or Advanced Nurse Practitioner selects from the following order of preference under criteria provided:

- Spouse
- Adult child
- Parents
- Adult sibling
- Adult grandchild
- Close friend
- Any other person or entity according to DHHR rules

26. WYOMING

Wyo. Stat. §35-22-406

- Individual designated by personally informing the supervising health care provider
- Spouse, unless legally separated
- Adult child
- Parent
- Grandparent
- Adult sibling
- Adult grandchild
- Close friend

Majority rule if more than one member of any class assumes authority