

## Who Will Speak For You?

Sometimes people lose the ability to make their own healthcare decisions. When this happens, these important decisions need to be made by someone who is acting on the patient’s behalf. These decision makers are either someone the patient has named in an advance directive (healthcare agent) or determined by the legal hierarchy in Georgia (see table 1 below). These people are referred to as surrogate decision makers, or SDM.

Table 1: Legal Hierarchy in Georgia

<u>For Medical/Surgical Treatment Decisions</u>	<u>For DNR</u>
Patient	Patient
Health Care Agent	Health Care Agent
Spouse	Spouse
Guardian	Guardian
Adult Child	Adult Child
Parent	Parent
Adult Sibling	Adult Sibling
Grandparent	
Grandchild	
Adult Niece, Nephew, Aunt, Uncle of First Degree	
Adult Friend	

Regardless of who the SDM is or how they were appointed, there are certain expectations of him or her when making healthcare decisions.

First, if there is an advance directive which includes treatment preferences, then the SDM is expected to follow those preferences. It is also important that the SDM not make decisions based on their own preferences, but those of the patient.

As discussed earlier, there is an expectation that the SDM honor the patient’s wishes and be guided by those wishes when making decisions. The healthcare team is looking for the SDM to express what the

patient's wishes would be if they could speak for themselves. There are two ways to think about what to do when trying to make decisions:

1. **Substituted Judgement:** This means making the same decision that the patient would make if he/she could make the decision themselves. These decisions are made based on the patient's values, goals and past behaviors.

Questions to help guide substituted decision-making:

- Did the patient talk about how he/she wanted to live or die?
- Did you talk to them about choices that other family members may have made in a similar situation?
- Did the patient ever talk about treatments that he/she would or would not want (breathing tube, feeding tube, etc.)?

2. **Best-Interest Standard:** This is used when the patient's values, goals and past behaviors are unknown. This means making decisions that look at both the positive and negative sides of possible treatment(s). The SDM should think about what they want to happen and the likelihood of that happening with the available treatment options.

Questions to help guide Best-Interest decision making:

- Will this treatment help get the patient back to the way they were before they got sick?
- Will this treatment cause pain/suffering or possibly make them sicker?
- Will this treatment add days/months to their life? What will those days/months look like?
- Will this treatment harm the patient more than it will help?

When using the best-interest standard, best interest should be determined from the perspective of the patient, not that of the SDM.

If you are still having difficulties WellStar has resources to assist you. You can speak with your physician or contact the WellStar Ethics Department at 470-956-6475.

Citations:

1. LexisNexis Custom Solution: Georgia Code Research Tool. (n.d.) Retrieved January 17, 2017 from <http://www.lexisnexis.com/hottopics/gacode>
2. Post LF, Blustein J. *Handbook for health care ethics committees*. Second edition Ed. Baltimore: Johns Hopkins University Press; 2015