

Decisions whether to forgo life-sustaining treatment on behalf of a patient without decisional capacity may be made by a surrogate decision maker if the patient has one or more of the following three qualifying conditions: terminal condition, permanent unconsciousness, or incurable or irreversible condition. Before implementation of a decision to forgo life-sustaining treatment, at least one other qualified physician (the concurring physician) must concur in the decision.

Decisions concerning only medical treatment on behalf of a patient who only lacks decisional capacity may be made by a surrogate decision maker in consultation with an attending physician. The concurrence of another qualified physician is not required before implementation of a decision concerning medical treatment.

QUALIFYING CONDITIONS:

“Terminal condition” means an illness or injury for which there is no reasonable prospect of cure or recovery, death is imminent, and the application of life-sustaining treatment would only prolong the dying process.

“Permanent unconsciousness” means a condition that, to a high degree of medical certainty, (i) will last permanently, without improvement, (ii) in which thought, sensation, purposeful action, social interaction, and awareness of self and environment are absent, and (iii) for which initiating or continuing life-sustaining treatment, in light of the patient’s medical condition, provides only minimal medical benefit.

“Incurable or irreversible condition” means an illness or injury (i) for which there is no reasonable prospect of cure or recovery, (ii) that ultimately will cause the patient’s death even if life-sustaining treatment is initiated or continued, (iii) that imposes severe pain or otherwise imposes an inhumane burden to the patient, and (iv) for which initiating or continuing life-sustaining treatment, in light of the patient’s medical condition, provides only minimal medical benefit.

“Decisional Capacity” means the ability to understand and appreciate the nature and consequences of a decision regarding forgoing life-sustaining treatment and the ability to reach and communicate an informed decision in the matter as determined by the attending physician.

“Forgo Life-Sustaining Treatment” means to withhold, withdraw, or terminate all or any portion of life-sustaining treatment with knowledge that the patient’s death is likely to result.

“Life-Sustaining Treatment” means any medical treatment, procedure, or intervention that in the judgment of the attending physician, when applied to a patient with a qualifying condition, would not be effective to remove the qualifying condition or would serve only to prolong the dying process. Those procedures can include, but are not limited to, assisted ventilation, renal dialysis, surgical procedures, blood transfusions, and the administration of drugs, antibiotics, and artificial nutrition and hydration.

“Surrogate Decision Maker” means an adult individual or individuals who (i) have decisional capacity; (ii) are available upon reasonable inquiry; (iii) are willing to make decisions regarding the forgoing of life-sustaining treatment on behalf of a patient who lacks decisional capacity and is diagnosed as suffering from a qualifying condition; and (iv) are identified by the attending physician in accordance with the provisions of this Act in the following order of priority:

- (1) the patient’s guardian of the person;
- (2) the patient’s spouse;
- (3) any adult son or daughter of the patient;
- (4) either parent of the patient;
- (5) any adult brother or sister of the patient;
- (6) any adult grandchild of the patient;
- (7) a close friend of the patient;
- (8) the patient’s guardian of the estate.

“Close Friend” means any person 18 years of age or older who has exhibited special care concern for the patient and who presents an affidavit to the attending physician stating that he or she (i) is a close friend of the patient, (ii) is willing and able to become involved in the patient’s health care, and (iii) has maintained such regular contact with the patient as to be familiar with the patient’s activities, health and religious and moral beliefs. The affidavit must also state facts and circumstances that demonstrate that familiarity.