

Health Care Proxy- Massachusetts

1) Does not need to be notarized in MA to be valid; other states require notary is not in effect until invoked by MD in MD Orders- FRH MD may accept and support pre existing invocation from community PCP

2) For Medical Decisions only; not valid for financial, insurance or housing decisions; may have access to medical record when invoked.

3) Is a legal non clinical "advanced directive"

4) May be invoked and remain in place when guardian is in place, will be noted on guardianship paper-

5) HCP indicated in guardianship papers overrides guardian for medical decisions when there is discrepancy

Per M.G.L. Ch 201D if an individual is; competent and over the age of 18, they may appoint another person, an agent to make decisions about their health if they are unable to do so.

Health Care Proxy- Massachusetts (cont)

A person can appoint anyone except, the administrator, operator, of employee of an health care facility or SNF that they are a patient or resident of UNLESS that person is related by blood, marriage or adoption.

Surrogate Decision Maker or Advocate

A patient may indicate a family spokes person, advocate or surrogate decision maker per policy PS-084 this must be clearly documented in the record and the team be made aware. This is designation is non- binding, and provides that person with no legal access to anything or ability to make decisions on the patients behalf. This person has no right to medical record or info in writing. Patient may request info themselves and give that info to anyone they want.

How to Handle an Incapacitated Patient w/no HCP

A signed Health Care Proxy Form will always be our preferred method of verifying the individual we are speaking to has the power and permission to provide decisions regarding an individuals medical care and obtaining the individuals protected health information.

If the patient is unavailable, incapacitated, or in an emergency situation and consequently has no opportunity to object to disclosure of his or her PHI, a HealthSouth/Fairlawn employee may use or disclose PHI to a person involved in the patient's care if:

in the exercise of the employee's professional judgment, the use or disclosure is determined to be in the best interests of the patient; and

is limited to PHI that is directly relevant to the person's involvement with the patient's health care.

Minimum Necessary PHI ONLY

Durable Power of Attorney

Financial form- Non-Clinical

Does Not allow for medical decisions or nursing home placement; may not be recognized until invoked by MD- notarized is a document that grants a person or persons (Attorney-in-fact) the legal powers to perform on behalf of an individual certain acts and functions.

A "Durable" POA maintains intact even if the person becomes disabled. But is discontinued if the person were to expire.

The powers usually given can include real estate, banking, financial transactions, personal and family maintenance government benefits, estate trust and beneficiary transactions.

Living Will

Clinical form- may or may not designate a surrogate or desired line of communication with loved ones

Clinical "advanced directive"

Not financial



Living Will (cont)

Directive for end of life care or severe medical crisis intervention wishes Non-binding in MA- gives direction to end of life and emergent care decisions (no notary needed)

MOLST form or Comfort Care form are portable DNR clinical advanced directives in MA- MD signature required to make it valid-is the patient's property even if drafted at FRH

Binding in CT and other states- CT Living Will has the HCP imbedded in it- page 2- be on the lookout (notarized)

CT has a separate portable DNR it has a stop sign picture on it- it is a clinical advanced directive- MD signature makes it valid-is the patient's property

Executor/Administrator of Estate

Non-Clinical- takes effect after a death, relevant only to billing and medical record release.

Executor/Administrator of Estate (cont)

An Executor is a person named in the will that had been drafted when the individual was competent to make a legal document.

If an individual dies without a will, or with an estate plan that does not nominate an executor, the Administrator of the Estate can access his or her medical and provider records.

Durable Medical Power of Attorney

Financial and Clinical- Notarized May not be recognized until invoked by an MD

Durable Power of Attorney with expressed written permission to participate or make certain medical decisions in certain situations.

Guardianship of Incapacitated Persons

Clinical (including access to medical record) and housing decisions

Powers are only as specified by guardianship paperwork- court ordered

Guardianship of Incapacitated Persons (cont)

Permanent guardianship is determined prior to admission, guardianship papers are in the record before patient arises, CM role to ensure they are up to date for patient needs

Rogers- clinical specific to administration of antipsychotic and similarly classed medications
Temporary- guardianship clinical and housing- time limited; may be in place on admission or acquired after admission

Emergency- can be obtained within 24 hours for non life/limb decisions that are critically time sensitive
CM troubleshoots and facilitates guardianship resolutions throughout the inpatient stay
Ad Litem- appointed for a specific task- usual when there is question about the need for guardian, complexities (development delay; abuse neglect; Rogers decision etc.) or family custody issues

Guardianship of Incapacitated Persons (cont)

Placement in a medical facility after FRH-requires a court order - not always in place when patients are admitted and delays SNF placement; SNF can refuse if this is not on the guardianship order, guardianships drafted prior to 2008 are not likely to have this caveat. Conservator, Financial only, court ordered companions with Guardianship to manage financial affairs

Next of Kin- Intestacy Laws

No decision making power; person to be notified of in case of death when there is no other identified legal representative; the first person to be asked for emergency guardianship