

# Health Care Selections for Dementia Patients: How to Recognize the Need For, Obtain and Interact with a Surrogate Decision Maker

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# Speaker Disclosure Statement

I do not have any relevant financial relationships with any commercial interests

# Learning Objectives

- (1) Outline the legal principals underlying the right to make our own medical decisions and the impact on the aging incarcerated population
- (2) Explain the differences between healthcare surrogates who are selected by the patient prior to severe progression of the disease versus appointed by a court
- (3) Discuss how to recognize when a dementia patient needs a healthcare surrogate and how to obtain one

# Legal Principals Underlying the Right to Make Medical Decisions

- (1) General Rights
- (2) Constitutional Rights
- (3) Impact on Aging  
Incarcerated Patients



# Power of Attorney/Proxy v. Appointed Guardian

**POA/Guardian**



**Appointed Guardian**



# Patient Grants Power to Proxy Prior to Disease Progression

Patient  
Competent

Correct  
Form  
Completed

Paperwork  
Confirmed

# Process for Changing/Terminating Proxy



Patient  
Decision



Proxy  
Decision



Court  
Decision



# Process for Changing Proxy: Patient Decision Prior to Severe Progression

Patient is Competent

Correct Termination Paperwork

Future Medical Decisions

# Process for Changing Proxy: Proxy Decision

Patient is Competent

Patient Agrees/Disagrees

Future Medical Decisions

# Process for Changing Proxy: Court Decision

Patient not Competent

Petition and Proof

Court Decision



# Court Process to Obtain Healthcare Guardian for Dementia Patient

Petition and Support



Trial and Decision



# Court Process to Obtain Guardian: Proof of Lack of Capacity

Express  
Choice

Understand  
Information

Compare  
Risks and  
Benefits

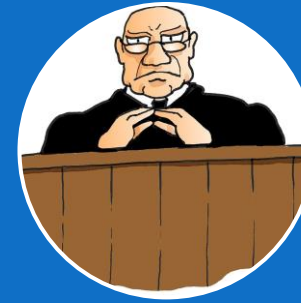
# Court Process to Obtain Guardian: Trial and Decision



Petitioner  
Case



Patient  
Response



Court  
Order



# Guardianship Trial: Petitioner's Case

Patient Lacks Capacity

Guardian in Patient's Best Interest

Pending Medical Decisions

# Guardianship Trial: Patient Response

Patient has Capacity

Guardian not in Patient's Best Interest

No Important Pending Medical Decisions

# Guardianship Trial: Court Order

Ruling on Competency

Selection of the Guardian

Scope and Duration

# Interaction With Proxy or Guardian

## Obtaining Consent



## Patient's Rights



# Interaction with Proxy/Guardian: Obtaining Consent


Written  
Consent

Oral  
Consent

Changes

# Interaction with Proxy/Guardian: Patient Rights





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