

This guide tells what to do while there's still time to think about it. It also suggests how to make the hard decisions. And it tells where you can get help and more information.

What to Do While There's Still Time

Sometimes you know ahead of time that you might be making medical decisions for someone else. This happens when someone has named you to do this in a legal document called an *advance directive*. (Some people call this a *durable power of attorney for health care*.) In Maryland, the person named to make decisions in this document is called a *health care agent*.

If you know you are going to be someone's health care agent, the most important thing you can do is talk to that person while there's still time. After all, the decisions that you'll make should be based on what the other person would want, even if that is different from what you would want for yourself. So learn about the other person's values and beliefs. Don't be afraid to use the "D" word: dying. How does the person want to live during the days or weeks before death?

Suppose nobody has named you as a health care agent. Still, you might be called upon to make medical decisions as what the law calls a *surrogate*. Under Maryland law, this is usually a family member, but possibly a friend, who can make decisions when the patient cannot and when the patient hasn't named a health care agent. (One type of surrogate is a *guardian*, appointed by a court.)

If you think you might become someone's surrogate, have a conversation about values, beliefs, and the end of life. Ask whether the person has any particular wishes about care under certain conditions. It's tough to talk about illness and dying, but it's a lot tougher making decisions without having a sense of what the patient would want.

What to Do When the Patient Can No Longer Decide

You have three basic things to do:

First, find out the medical facts. Ask doctors and nurses what the current situation is and what's most likely to happen.

Second, find out the medical choices. Have the doctor explain the risks and benefits of each choice.

Be prepared to get the most out of your time with the doctor:

- Make a list of questions beforehand.
- Ask the doctor about things you don't understand. But don't expect certainty or guarantees.
- Take notes.
- Think about bringing a friend or relative of the patient's along to help you talk with the doctor—and for moral support!

Third, decide as the patient would want. From what the patient wrote or told you, you might know for sure. Or you might be pretty confident because you have a sense of the patient's values. If you're still unsure what the patient would want, then do what gives the most benefit to the patient with the least burden.

Sometimes a health care professional might ask you to go over your decisions and write them on a form for the medical record. One form used in Maryland, especially in nursing homes, is called the *Patient's Plan of Care* form. The form should clearly state your decisions.

Where to Get Help

Help is available if you need it. You don't have to handle things by yourself. Talk with family members or the patient's spiritual advisor. You can also get information and help from the professionals in hospitals or nursing homes—like a social worker, patient representative, or ethics committee.

How to Get More Information

A much more detailed version of this guide is in a booklet called *Making Medical Decisions for Someone Else: A Maryland Handbook*. You can get this on the Internet at the website of the Maryland Attorney General at www.oag.state.md (click on “Health Policy”). You will also find information about the Maryland law on advance directives, deciding for others, and related issues. To request a printed copy of the booklet, leave your name and address at this number: (410) 576-7000.

March 2006

This guide has been prepared by the American Bar Association Commission on Law and Aging in collaboration with the Maryland Office of the Attorney General J. Joseph Curran, Jr. Attorney General

Funding for this guide was provided by the Morton K. and Jane Blaustein Foundation

Copyright © American Bar Association. The ABA hereby grants permission for this guide to be reproduced in its entirety and without alteration for non-commercial purposes by not-for-profit organizations and federal, state, or local government agencies. Requests to reproduce this guide in any other manner should be sent to copyright@abanet.org.

The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

Making Medical Decisions for Someone Else:

A Guide for Marylanders



When someone close to you is seriously ill and can't make health care decisions, a doctor might ask you “What should we do next?” This could happen if the patient named you to make medical decisions. It could also happen because you are a relative or close friend of the patient—or sometimes because a court gave you the responsibility.

No matter how it came about, you should feel honored to be doing something so important for the patient. But the task can be hard, filled with emotion, worry, and doubt.