

(3) A FRIEND OR OTHER RELATIVE MAY MAKE DECISIONS ABOUT HEALTH CARE FOR A PATIENT UNDER PARAGRAPH (2) OF THIS SUBSECTION IF THE PERSON:

- (I) IS A COMPETENT INDIVIDUAL; AND
- (II) PRESENTS AN AFFIDAVIT TO THE ATTENDING PHYSICIAN

STATING:

1. THAT THE PERSON IS A RELATIVE OR CLOSE FRIEND OF THE PATIENT; AND

2. SPECIFIC FACTS AND CIRCUMSTANCES DEMONSTRATING THAT THE PERSON HAS MAINTAINED REGULAR CONTACT WITH THE PATIENT SUFFICIENT TO BE FAMILIAR WITH THE PATIENT'S ACTIVITIES, HEALTH, AND PERSONAL BELIEFS.

(4) THE ATTENDING PHYSICIAN SHALL INCLUDE THE AFFIDAVIT PRESENTED UNDER PARAGRAPH (3) OF THIS SUBSECTION IN THE PATIENT'S MEDICAL RECORD.

(B) DISPUTE AMONG SURROGATES.

(1) IF PERSONS WITH EQUAL DECISION MAKING PRIORITY UNDER SUBSECTION (A) OF THIS SECTION DISAGREE ABOUT A HEALTH CARE DECISION, AND A PERSON WHO IS INCAPABLE OF MAKING AN INFORMED DECISION IS RECEIVING CARE IN A HOSPITAL OR RELATED INSTITUTION, THE ATTENDING PHYSICIAN OR AN INDIVIDUAL SPECIFIED IN SUBSECTION (A) OF THIS SECTION SHALL REFER THE CASE TO THE INSTITUTION'S PATIENT CARE ADVISORY COMMITTEE, AND MAY ACT IN ACCORDANCE WITH THE RECOMMENDATION OF THE COMMITTEE OR TRANSFER THE PATIENT IN ACCORDANCE WITH THE PROVISIONS OF § 5-613 OF THIS SUBTITLE. A PHYSICIAN WHO ACTS IN ACCORDANCE WITH THE RECOMMENDATION OF THE COMMITTEE IS NOT SUBJECT TO LIABILITY FOR ANY CLAIM BASED ON LACK OF CONSENT OR AUTHORIZATION FOR THE ACTION.

(2) IF A PERSON WHO IS INCAPABLE OF MAKING AN INFORMED DECISION IS NOT IN A HOSPITAL OR RELATED INSTITUTION, A PHYSICIAN MAY NOT WITHHOLD OR WITHDRAW LIFE-SUSTAINING PROCEDURES IF THERE IS NOT AGREEMENT AMONG ALL THE PERSONS IN THE SAME CLASS.

(C) STANDARDS FOR SURROGATES.

(1) ANY PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR ANOTHER UNDER THIS SECTION SHALL BASE THOSE DECISIONS ON THE WISHES OF THE PATIENT AND, IF THE WISHES OF THE PATIENT ARE UNKNOWN OR UNCLEAR, ON THE PATIENT'S BEST INTEREST.

(2) IN DETERMINING THE WISHES OF THE PATIENT, A SURROGATE SHALL CONSIDER THE PATIENT'S:

(1) CURRENT DIAGNOSIS AND PROGNOSIS WITH AND WITHOUT THE TREATMENT AT ISSUE;