

**311.631 Responsible parties authorized to make health care decisions.**

- (1) If an adult patient whose physician has determined that he or she does not have decisional capacity has not executed an advance directive, or to the extent the advance directive does not address a decision that must be made, any one (1) of the following responsible parties, in the following order of priority if no individual in a prior class is reasonably available, willing, and competent to act, shall be authorized to make health care decisions on behalf of the patient:
  - (a) The judicially-appointed guardian of the patient, if the guardian has been appointed and if medical decisions are within the scope of the guardianship;
  - (b) The attorney-in-fact named in a durable power of attorney, if the durable power of attorney specifically includes authority for health care decisions;
  - (c) The spouse of the patient;
  - (d) An adult child of the patient, or if the patient has more than one (1) child, the majority of the adult children who are reasonably available for consultation;
  - (e) The parents of the patient;
  - (f) The nearest living relative of the patient, or if more than one (1) relative of the same relation is reasonably available for consultation, a majority of the nearest living relatives.
- (2) In any case in which a health care decision is made under this section, the decision shall be noted in writing in the patient's medical records.
- (3) An individual authorized to consent for another under this section shall act in good faith, in accordance with any advance directive executed by the individual who lacks decisional capacity, and in the best interest of the individual who does not have decisional capacity.
- (4) In any case in which a health care decision is made under this section, hospitalization for psychiatric treatment at a general hospital shall not exceed fourteen (14) consecutive days unless a court order is obtained under KRS Chapter 202A or 202B. For the purposes of this section, a general hospital is one that is not owned or operated by the Commonwealth of Kentucky.
- (5) An individual authorized to make a health care decision under this section may authorize the withdrawal or withholding of artificially-provided nutrition and hydration only in the circumstances as set forth in KRS 311.629(3).

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 116, sec. 19, effective July 13, 2004. -- Created 1994 Ky. Acts ch. 235, sec. 6, effective July 15, 1994.