

### **311.629 Powers of health care surrogate.**

- (1) A surrogate designated pursuant to an advance directive may make health care decisions for the grantor which the grantor could make individually if he or she had decisional capacity, provided all the decisions shall be made in accordance with the desires of the grantor as indicated in the advance directive. When making any health care decision for the grantor, the surrogate shall consider the recommendation of the attending physician and honor the decision made by the grantor as expressed in the advance directive.
- (2) The surrogate may not make a health care decision in any situation in which the grantor's attending physician has determined in good faith that the grantor has decisional capacity. The attending physician shall proceed as if there were no designation if the surrogate is unavailable or refuses to make a health care decision.
- (3) A health care surrogate may authorize the withdrawal or withholding of artificially-provided nutrition and hydration in the following circumstances:
  - (a) When inevitable death is imminent, which for the purposes of this provision shall mean when death is expected, by reasonable medical judgment, within a few days; or
  - (b) When a patient is in a permanently unconscious state if the grantor has executed an advance directive authorizing the withholding or withdrawal of artificially-provided nutrition and hydration; or
  - (c) When the provision of artificial nutrition cannot be physically assimilated by the person; or
  - (d) When the burden of the provision of artificial nutrition and hydration itself shall outweigh its benefit. Even in the exceptions listed in paragraphs (a), (b), and (c) of this subsection, artificially-provided nutrition and hydration shall not be withheld or withdrawn if it is needed for comfort or the relief of pain.
- (4) Notwithstanding the execution of an advance directive, life sustaining treatment and artificially-provided nutrition and hydration shall be provided to a pregnant woman unless, to a reasonable degree of medical certainty, as certified on the woman's medical chart by the attending physician and one (1) other physician who has examined the woman, the procedures will not maintain the woman in a way to permit the continuing development and live birth of the unborn child, will be physically harmful to the woman or prolong severe pain which cannot be alleviated by medication.

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**History:** Created 1994 Ky. Acts ch. 235, sec. 5, effective July 15, 1994.