



Health Care Decision Making for Incapacitated Patients

Background

WSHA strongly supports a bill to improve decision making for patients who lack capacity. Hospitals want to help patients make sure their health care decisions are honored.

Expanding surrogate decision makers. Washington State's current informed consent law allows a very limited range of people to make medical decisions on behalf of a patient who is incapacitated. More than 30 other states let additional adult relatives and close friends make medical decisions for a loved one.

Authorizing advance directives. Patients can use several types of legal documents to express their wishes for health care, including a durable power of attorney and an advance directive. These documents can be especially important for end of life care. Currently, these two documents can't be finalized in the same way, making it difficult and confusing for people to legally express their wishes.

WSHA Position

WSHA supports a bill to improve decision making for patients who lack capacity. The bill addresses (1) who is authorized to be a surrogate decision maker; and (2) who is authorized to formally witness an advance directive by:

- Adding specific family members and close friends to the hierarchy of who may act as a decision maker.
- Aligning the execution of an advance directive with a durable power of attorney by allowing a notary to acknowledge the advance directive and allowing a witness to verify the identity of a person executing an advance directive.

Key Messages

- Current state law has a hierarchy that allows only a few types of family members to make medical decisions for an incapacitated loved one. Unfortunately, there are patients who do not have these people in their lives. Other family members or close friends who are willing to be a decision maker for the patient cannot do so unless they go through a long and costly guardian process in the court system.
- Advance directives allow patients to thoughtfully express end-of-life health care wishes in a way that health care providers can legally honor. Changing the law will help patients get end-of-life planning documents executed at the same time.

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