

Alternative Medical Decision Makers

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Capability

- ◆ Capability is not an all-or-none proposition
- ◆ People are allowed to make all decisions for which they are capable
 - understand the consequences of their decision

Best Decisions

- ◆ Done by the people who know us the best (substitute decision)
- ◆ Done by people who care about us (best-interest decision)
- ◆ Done in the light of day (adequate information and input)
- ◆ Involve all/most interested parties

Alternative Decision Makers

Decision Maker	Law
Self	U.S. Constitution
Health Care Rep	State Statute
Guardian	State Statute
Health Care Rep – ISP	OR Administrative Rule
None in Oregon	Case Law
Next-of-Kin	Common Law

Health Care Representative

- ◆ Health Care Decisions Act 1993
 - ORS 127.505 through ORS 127.654
- ◆ Allows the appointment of a Health Care Representative and/or leave Advance Directive for end-of-life
- ◆ Requires 2 witnesses that it is completed freely, capably, and without coercion

Health Care Representative

- ◆ Many people with developmental disabilities may not be capable of complicated medical decision but know who they trust to make medical decisions
- ◆ Don't have to be verbal or literate to use (may use a scribe)
- ◆ Can “spring into effect” immediately



Health Care Representatives

- ◆ Vastly underused tool for people with DD
- ◆ Very powerful voice
- ◆ Maximizes a person's control

Health Care Representative - ISP

- ◆ Authorized by ORS 127.635 – a consensus process to withhold or withdraw life support in limited medical conditions
- ◆ Attorney General –
 - The part is contained in the whole
 - If allowed to make life-ending decision, authority to set up process to do life-saving decisions

Health Care Representative - ISP

- ◆ OAR 309-041-1500
- ◆ The Support Team in DD residential services is allowed to appoint a HCR **IF**
 - The person is not capable of making the medical decision
 - The person cannot appoint their own HCR
 - Numerous Safeguards

HCR – ISP Safeguards

- ◆ Requires consensus at several key steps
- ◆ Requires inclusive team process
- ◆ Required special training
- ◆ Required notification of the State of appointments
- ◆ Prohibited certain decisions (life-ending, abortions, psychiatric hospitalizations, etc.)



Links



http://arcweb.sos.state.or.us/rules/OARs_300/OAR_309/309_041.html

<http://www.leg.state.or.us/ors/127.html>