



# Legal Briefs

From the Fort Knox Legal Assistance Office

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## HEALTH CARE SURROGATE INFORMATION

As an individual living in Kentucky, you may want to consider designating a health care surrogate to make health care decisions, should you become incapacitated.

### **What is a health care surrogate?**

Kentucky law provides that any adult of sound mind may designate one or more adults as a surrogate to make health care decisions on his or her behalf, should that person lose “decisional capacity.” Decisional capacity is defined as the ability to make and communicate a health care decision.

### **What can a surrogate do?**

A surrogate can make any health care decision for you. These decisions include deciding which health care facility will care for you; whether your medication will be initiated, changed or stopped; whether extraordinary resuscitation measures will be employed, if necessary; whether you will participate in experimental treatment; and whether artificial life-sustaining measures should be stopped.

### **Are there any limitations on the decisions that a surrogate can make?**

Yes. A surrogate may not make a health care decision in any situation in which your doctor has determined that you still have decisional capacity. A surrogate may only make health care decisions that you have elected they may make.

### **Who can be my surrogate?**

Any person over eighteen (18) years of age and of sound mind can act as your surrogate if designated by you. An employee, owner, director or officer of a health care facility where you are a patient cannot be designated or act as your surrogate unless you are related. Most individuals designate their spouse or other family member to act as their surrogate.

### **What if my surrogate decides that he does not want to make health care decisions for me?**

Any surrogate that you designate may resign at any time by giving you written notice to you, to any alternate surrogate that you have named, to your attending physician and to any health care facility in which you are a patient. If all designated surrogates resign, are unavailable or refuse to make health care decisions, your attending physician shall proceed as if there was no designation of a health care surrogate.

**Does the hospital have to comply with the decisions of my health care surrogate?**

No. A health care facility may refuse to act upon the decisions of your health care surrogate; however, the facility must inform your surrogate of its refusal and not prevent your surrogate from moving you to a facility that would presumably comply with the decisions of your surrogate.

**Can I name more than one person to act as my surrogate?**

Yes. If two or more persons are named as co-surrogates, all health care decisions must be made by unanimous consent unless your written designation provides otherwise. It is recommended that you name one person to serve as your surrogate and another person to serve as your alternate, should your original designee be unable or unwilling to serve.

**May I revoke my designation of a health care surrogate?**

You may revoke in whole or in part your designation or you may reduce or limit the powers of your surrogate at any time, as long as you are of sound mind. Revocation or limitation of powers may be written. An oral revocation may also be made if witnessed by two adults, one of whom shall be a health care provider. Physical destruction of your written designation of a health care surrogate by you or at your direction will act as a revocation.

**Will my surrogate incur any expenses on his/her behalf by acting as my surrogate?**

No. Acting as a surrogate does not impose any financial liability upon your surrogate.

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If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at [www.knox.army.mil/center/sja/](http://www.knox.army.mil/center/sja/). Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.

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