Medical Power of Attorney

CASE STUDY

Rob: Case Study©

Rob is a 54-year-old Caucasian male who was admitted into the hospital with shortness of breath, pneumonia, and weakness. Rob was born with moderate mental retardation and has been cared for by family for most of his life. Rob was able to move into a group home approximately ten years ago where he was able to minimally care for himself while receiving help with daily living activities from the group home staff including assistance with bathing, food preparation, and transportation to appointments.

Rob is not married and has no children. Rob's stepfather, Dwayne, is the only father he has ever known since Rob's mother married Dwayne when Rob was only four years old. Rob's mother died approximately fifteen years ago and his birth father died when Rob was three. Rob also has an older brother, Nathan, who lives in Nebraska and a younger sister, Janice, who lives locally in Arizona. Dwayne also lives in Arizona.

Although Rob has had difficulty making decisions his whole life, no one in the family has ever obtained legal guardianship of Rob. He remains his own guardian and has no power of attorney (POA), mental health care power of attorney (MHPA) or medical power of attorney (MPOA). Such an omission in long term planning is due to the fact that Rob and his family have been uncomfortable previously thinking about end-of-life care.

However, upon speaking to the attending physicians, it is clear that Rob is not doing well. He is not responding to any treatment and his lung functioning continues to decrease. Rob's left lung appears completely opaque on x-rays, which means there is little chance the lung will heal. The only other treatment available is to do surgery to remove the lung. Physicians do not recommend this surgery as they feel it will not do Rob any good and believe Rob may not even make it through the procedure.

The physicians have explained this to Rob's sister and are suggesting that Rob start service with hospice care. Rob is unresponsive when spoken to and is therefore unable to make any medical decisions for himself. However, Rob is still his own guardian and is the only person legally able to make decisions about his care.

The hospital social worker is asked to speak to the family to help determine their wishes. Dwayne is currently out of state but can be reached via telephone. Janice has discussed the options with her other brother, Nathan, and Dwayne. The family has come to the decision to place Rob on a "do not resuscitate/ do not intubate" (DNR/DNI) status. The attending physician does not feel this can be done legally since no one in the family
is Rob's MPOA.

The hospital social worker has asked several colleagues what the procedure would be in this case. There was no clear-cut answer so the hospital social worker called the hospital's Risk Management Department to clarify. According to Risk Management, if a patient is unable to make his or her own decisions and has no MPOA or legal guardian, the order for decision-making would be this: spouse, blood parents, adult children, adult blood siblings, and so on.

That being the case, since Rob has no spouse, no living blood parents, and no adult children, his siblings will make the decision and if Janice and Nathan are in agreement, the DNR/DNI papers can be signed. According to Janice, Nathan agrees with this decision. While this case takes place in Arizona, it should also be noted that requirements vary by state in regards to the hierarchy of decision-making privileges for family when there is no MPOA.

--May 2011