Caring for “Unrepresented Patients” - Strategies to Avoid Moral Distress and Substandard Care
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Terminology

Unbefriended
Unrepresented
Adult orphan

Patient w/o proxy
Incapacitated & alone

Definition

3 conditions

1 Lack capacity

2
No available, applicable AD or POLST

3

No reasonably available authorized surrogate

Nobody to consent to treatment

Step by step flowchart

1

Does the patient have capacity?

If yes, then patient makes treatment decision.

If no, can patient decide with “support”? 
If yes, then **patient** makes treatment decision.

If no, proceed

If no, proceed

Is there an available AD or POLST

Does the AD or POLST clearly **apply** here

If yes, follow AD or POLST (but involve surrogate)

If no, proceed

If patient lacks capacity, a **SDM** must make the treatment decision.
<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is there a court-appointed guardian?</td>
<td>If so, is the guardian reasonably available?</td>
</tr>
<tr>
<td></td>
<td>If no guardian ...</td>
</tr>
<tr>
<td>Is there a healthcare agent (DPOAHC)?</td>
<td>If so, is the agent reasonably available?</td>
</tr>
<tr>
<td></td>
<td>If no agent ...</td>
</tr>
<tr>
<td>Is there anyone on the default surrogate priority list?</td>
<td>If so, is the surrogate reasonably available?</td>
</tr>
<tr>
<td></td>
<td>Have social workers diligently searched for surrogates</td>
</tr>
</tbody>
</table>
If no, then → **Nobody** to consent to treatment

Is the situation an emergency

If yes →

If no, proceed on basis of **implied** consent

Is there any reason to believe the patient would object

Is there an functioning guardianship system?
Usually Not

If so, seek a court appointed guardian

Even if a guardian is forthcoming, may need to make decisions in the interim

Big problem

3 - 4% nursing home population

> 50,000

16% ICU admits

5% ICU deaths

> 25,000
Law as causal factor

Variability

Some states will have fewer unrepresented patients
Some states will have **zero** unrepresented patients

**Why?**

**Longer default surrogate lists**

**More relatives**
- Spouse
- Adult child
- Parent
- Adult sibling
- Grandparent / adult grandchild
- Aunt / uncle, niece / nephew
- Adult cousin

**Close friend**

**Social worker**
**Ethics committee**

**Existence of public guardian system**

**Slow Expensive**
Ethical Problems

Nobody to authorize treatment

3 ways to respond

1
No treatment
Wait until emergency (implied consent)

2
Physician acts without consent

Most common approach
Bias
COI
Careless

Oversight
Vulnerability

Oversight
Vulnerability

3
Scrutiny
Vetting

In addition to new laws

Problem long neglected

AGS
Geriatrics Healthcare Professionals

2016
References

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