



Right to Refuse Treatment

- 1. Make sure that when you are evaluating a potential admission to know their decision-making status and have proof of their durable power of attorney (DPOA) or guardianship.**
- 2. If a DPOA exists they are the decision-maker if a physician has determined the resident now lacks capacity. If you feel the DPOA's decisions are clearly not in the best interest of the resident, contact adult protective services (APS) and the state long-term care ombudsmen.**
- 3. If a guardian exists they are the decision-maker. If you feel their decisions are not in the best interest of the resident, contact APS and the long-term care ombudsmen. The county attorney from the jurisdiction that granted the guardianship may also have to be contacted.**
- 4. If the capacity of the resident has changed, or is not documented, and no formal decision-maker is established, then an evaluation is needed to determine capacity.**
- 5. Capacity evaluations can be done by any physician. However, for those cases where the issue of incapacity is less clear, or there is disagreement among caregivers, family or providers, arranging an evaluation with a psychiatrist or neuropsychologist is recommended.**
- 6. Remember that the ability to refuse treatment varies with risk. A resident may be able to refuse a bandaid for a scratch because there is little risk in doing so. However, that same resident could be unable to make a decision about a colonoscopy because the risk of refusal may carry much more significant risk.**
- 7. Search hard for cues as to why a resident may be refusing a treatment. It may be that there is an environmental reason for the refusal. One of the main reasons for refusing treatment in the hospital setting is that the procedure/treatment in question was never explained to the patient in language they could understand.**
- 8. If the treatment or therapy would have to be done without the incapacitated resident's assent make sure the risks and benefits of receiving the treatment versus not receiving the treatment have been explained to the DPOA or guardian and that discussion and the decision of the DPOA or guardian is documented in the resident's chart.**