

## ENDLESS POSSIBILITIES

### A COMPARISON OF DECISION MAKING OPTIONS IN DELAWARE

	<b>Supported Decision Making (Proposed)</b>	<b>Surrogate Decision Making</b>	<b>Advanced Health-Care Directive</b>	<b>Power of Attorney</b>	<b>Guardianship</b>
<b>Who Completes the Form</b>	The adult, two witnesses, and the Supporter.	Determination is made by the attending physician if patient lacks capacity, or stated by the patient if able.	The adult, with or without medical or legal consultation.	The adult, with or without legal consultation.	A petition and multiple forms must be filed by the person seeking guardianship with the Court of Chancery.
<b>Type of Document</b>	Document executed and witnessed indicating what type of assistance is needed and what the supporter has permission to do.	Documented by the physician in the patient's health record as to who is designated by the patient, or who is available to serve.	Legal document stating a person's preferences to guide future health care treatment if the adult loses decision-making capacity, and may appoint an agent.	Legal document appointing an agent to manage financial affairs on behalf of the adult prior to or when the adult loses capacity.	Court Order specifying the powers of the guardian and what, if any, rights are retained by the individual.
<b>Intended Population</b>	Individuals who need help in gathering and assessing information, and making informed decisions.	Patients in the health care setting with or without decision making capacity.	All adults that have even a modest level of capacity, who are aware and able to understand the nature and effect of the document. (Testamentary capacity)	All adults that have even a modest level of capacity, who are aware and able to understand the nature and effect of the document. (Testamentary capacity)	All individuals assessed by a physician to have no decision making capacity, or those at risk of harm or exploitation.

<b>Signatures required</b>	Document must be signed by the adult, two witnesses, and the appointed Supporter.	Confirmed in writing by the physician if patient lacks capacity, or by the physician and the witness if decision maker designated by patient.	Person and two witnesses meeting specific requirements.	Document must be signed, witnessed and notarized.	Court Order signed by a Judicial Officer.
<b>Appointment of Authorized Representative</b>	Appoints an individual to gather information and assist in assessing information. Supporter does not have individual authority.	A person may designate a surrogate decision maker by informing the health care provider in the presence of a witness, or if unable to do so, the health care provider may recognize an individual pursuant to the law. (16 Del.C. §2507)	Title 16, Chapter 25 provides a form which must be executed to set out the wishes of the person and appoint an agent who may act when the individual becomes incapacitated.	Title 12, Chapter 49A provides a statutory form and directions for appointing an agent.	The Court of Chancery appoints a guardian upon the petition. Title 12, Chapter 39.
<b>Role of Representative</b>	To provide support to the adult, including help in assessing information, options, responsibilities and consequences of the adult's life decisions, including those about health care, financial decisions, and support services.	To make decisions about health care in place of the individual.	To make decisions about health care in place of the individual in conformance with their wishes.	To make decisions in place of the individual about financial matters.	To assume all decision making in place of the individual, who retains not ability to make decisions for themselves. Authority extends to both person and property depending on the order of the Court.
<b>Termination of Power</b>	May be revoked by individual.	A competent person may disqualify a surrogate in writing or by communicating to the care provider.	May be revoked in writing or another means of effective communication the intent to revoke.	May be revoked by the individual.	The guardianship may be terminated upon review by the Court of Chancery, or terminates upon death.

