

Supporting Family Decisions for Patients in Medical Crisis



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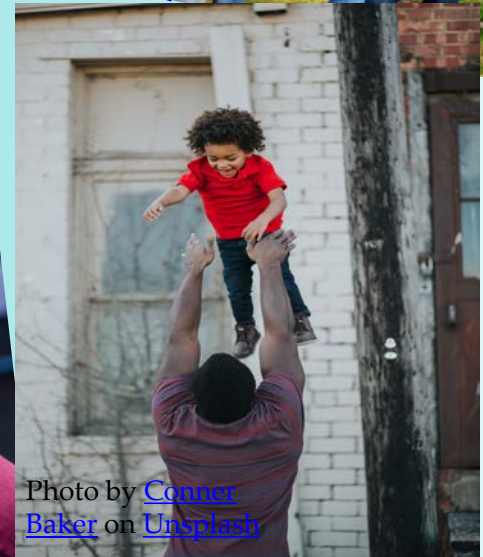
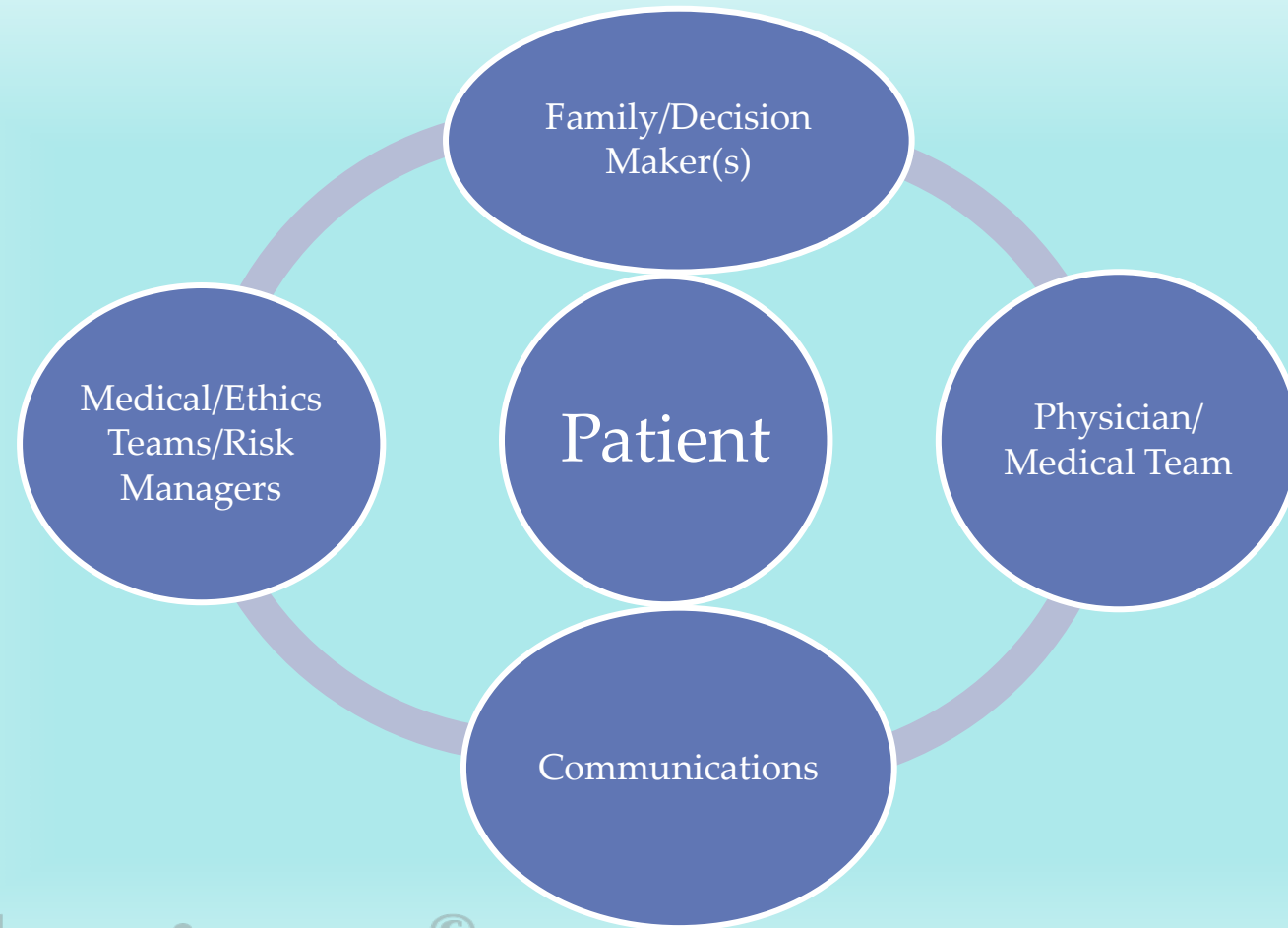


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DECISION-MAKING PROCESSES



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FRAMEWORK: FS§ 765

Health Care Advance Directives

- FS§ 765 (1992-2019): Defines and establishes Advance Directives (ADs), Living Wills (LWs); anatomical gifts (processes and procedures)
- 1992 U. S. Supreme Court (*Cruzan v Missouri*, 1990). States establish “clear and convincing evidence” for patient representatives
- FS§ 765 distinguishes between **Surrogate** & **Proxy** (complex language)
 - **FL Surrogate** - patient appointed in writing; broader patient representation/decisions; use *substituted judgment* standard of decision-making.
 - **FL Proxy** - no advanced surrogate appointment; patient relationship hierarchy for decision-maker(s); use *best interests* standard.
 - Both **surrogates** and **proxies historically** have assumed decision roles after medical patients determined **incapacitated** by treating physician(s)

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FL §765 OVERVIEW

Chapter 765 (1992 – 2019)

- I. General Provisions (765.101-.113)
- II. Health Care Surrogate (765.201-.205)*
- III. Life-Prolonging Procedures (765.301-.309)
- IV. Absence of Advance Directive (765.401-.404)**
- V. Anatomical Gifts (765.510-.547)

* New Surrogate representation, duties and form (appointment at s. 765.202).

** Proxy representation covered here. (Uniqueness of FL LCSW Healthcare Proxy statute in US)

FS§ 765 (2015)

Patient's Surrogate decision-maker can:

1. Share information (patient and surrogate jointly)
2. Share decisions (patient-surrogate jointly)
3. Both 1 and 2
4. Remain in status quo (pre-2015): Patient makes decisions until physician(s) determine incapacity, then, Surrogate/Proxy becomes decision maker

Patient and Surrogate can:

1. Use Format in Ch 765 QR form on American Bar Association.
2. NO attorney required for patient-surrogate dyad to draft valid, legal surrogate appointment

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FL STATUTE §765

Before 10/1/15	After 10/1/15
<p>Timeframe: HCS decisions <i>at patient incapacity</i></p>	<ul style="list-style-type: none"> • New! HCS can act <i>prior to incapacity</i>: shares information, decisions, or both • Default: acts <i>at patient incapacity</i> • Patients retaining capacity retain control
<p>Form: HCS appointment effective at patient incapacity</p>	<ul style="list-style-type: none"> • New! HCS appointments <i>before or after</i> incapacity
<p>Action Notices:</p> <ul style="list-style-type: none"> • Physicians (primary and attending) - record incapacity in patient record, notify HCS/DPA in writing • HCS access to <i>medical records</i> 	<ul style="list-style-type: none"> • New! Primary <u>or</u> attending evaluates • New! Hospital <i>determining</i> incapacity notifies HCS or attorney <i>in writing</i> • New! Facility of attending <i>notifies</i> primary physician • New! HCS duties: 1) <i>in advance</i>, or 2) at incapacity (<i>default</i>). • New! HCS <i>medical information</i> access (broader, longer)
<ul style="list-style-type: none"> • Minors: POA Hierarchy (FL§ 743) 	<ul style="list-style-type: none"> • New! Form for HCS for <i>minors</i>.

BIOETHICS: DECISION PROCESSING

4 Elements of Medical Informed Consent (A Process, not a Form!)

Physicians should:

- 1) Assess patient capacity/ability to make decisions
 - 2) Review TX benefits/risks
 - 3) Make (medical) recommendations; *then*, and **only** *then*,
 - 4) Ask patient (or representative) for signatures on the consent form
- **Patient Autonomy***: Protecting and defending informed patient choice
 - **Beneficence***: Making beneficial choices for patients
 - **Nonmaleficence**: Doing “No Harm” to patients
 - **Justice**: Fairly assessing and distributing treatments to all patients

* *Informed consent reflects the tension between these 2 primary bioethical principles.*

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ASSIGNMENTS: SOCIAL WORK

- SW History: Ida M. Cannon, 1908, Mass General, Boston
 - Co-Founder: American Association of Hospital Social Workers
 - Used Visiting Nurses to link home care; psychology/psychotherapy to support psychiatric patients
- Social Workers **ARE** the medical team Communications Specialists
- Assessing Decision-Makers: Who decides? How prepare? (HSPS, Buckey & Abel)
- What of Social Work/Case Management in facilities?
 - Ratios: 1 SW to 6+ person team for 325 beds
 - Counseling? Therapeutic interventions? Specialized Family Education in ICU/CCU Waiting Rooms?
 - Facilitate Family Decision-Making?
 - Facilitate discharge plans requiring special equipment, placements at a distance, overnight stays?
 - Staff charged with d/c planning, homeless individuals, special needs (adults/children), Ethics Teams?
 - Healthcare Disparities
- Western Medicine: Spiritual/Cultural Influences

DECISION EVENTS

- Practice during COVID-19:
 - Role(s) for Social Workers
 - What can I say? How can I say it?
 - Giving comfort
 - Giving guidance
 - Legal rights of patient families
- Follow Up Services
- Follow Up Referrals
- Practice Self-Care

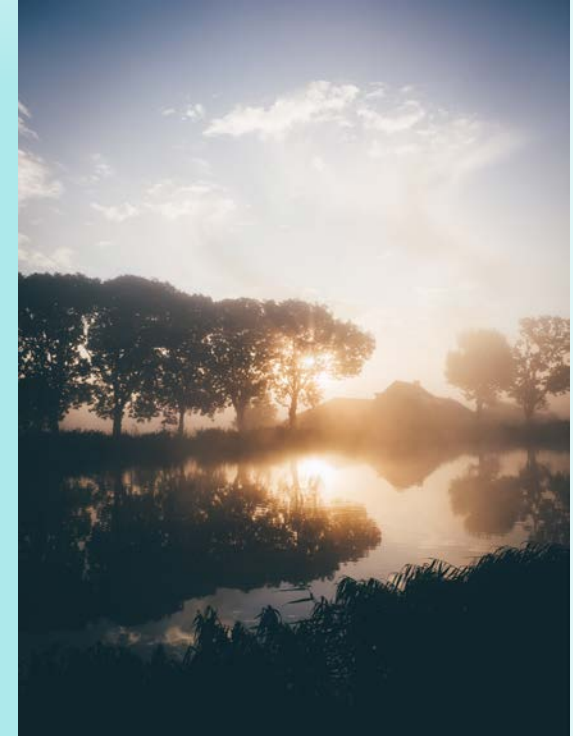


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