

	INODAYA Hospitals - Kakinada		Documentation code: INH/PRE.Doc.No:06
	Policy on who can give consent when a patient is incapable of independent decision making		Prepared date: 05/09/2023
	Reference: PRE.4d NABH Standards- 6th Edition		Issue Date:05/09/2023
	Issue no: 02	Review No: 1	Review date: 04/09/2024

PRE. 4d. Policy on who can give consent when a patient is incapable of independent decision making

1. Purpose

- To ensure valid informed consent for medical interventions when a patient lacks capacity to decide.
- To define who is authorized to give consent on behalf of such patients, in a way that respects patient rights, legal requirements, and clinical best practice.
- To safeguard patient safety and dignity, while complying with accreditation (e.g., NABH) and legal standards.

2. Scope

- Applies to **all patients** in the hospital (inpatient, outpatient) who are assessed to be incapable of independent decision-making.
- Includes any treatment, diagnostic procedure, or intervention where informed consent is normally required.
- Covers emergency and non-emergency situations.

3. Definitions

- **Capacity / Competence:** The ability of a patient to understand relevant information, weigh risks and benefits, make a decision, and communicate it.
- **Incapable of Independent Decision Making:** When a patient lacks the capacity (temporarily or permanently) to give informed consent.

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Medical Director	Chief Executive Officer	Managing Director



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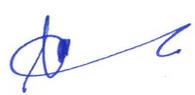
- **Surrogate Decision-Maker:** An individual legally or ethically authorized to give consent on behalf of the patient.
- **Next of Kin / Legal Guardian:** Close family member (or court-appointed guardian) who may act as surrogate.
- **Emergency / Life-Threatening Situation:** A scenario where delay in treatment could cause serious harm.

4. Policy Statement

1. When a patient is assessed to lack decision-making capacity, the hospital must follow a **clear, documented process** to identify an appropriate surrogate decision-maker.
2. The surrogate consent process must respect statutory norms, hospital policy, and ethical principles (best interest, substituted judgment wherever possible).
3. In life-threatening emergencies, treatment may proceed even if the surrogate is not immediately available, provided appropriate documentation and justification are recorded.
4. The hospital shall regularly review and document capacity assessments, surrogate decisions, and consent forms in the patient's medical record.
5. All such processes must be consistent with accreditation standards (for example, NABH) and applicable legal provisions.

5.0 Procedure:

- Clinician (e.g., the treating physician) evaluates the patient's capacity to consent.
- Use a standardized capacity assessment tool (if available).
- Document the assessment clearly in the medical record: reasons for incapacity, who assessed, date/time.

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- Common “next of kin” / surrogate hierarchy (as per general guidance): spouse → adult children → parents → siblings → legal guardian / court-appointed guardian. NABH interpretation suggests this order.

- Confirm legal status of guardian (if applicable) / verify identity and relationship.

Obtaining Consent from Surrogate

- Explain to the surrogate: diagnosis, proposed intervention, risks, benefits, alternatives, who will perform the procedure, and who else is involved — in a language they understand. (This aligns with NABH’s informed-consent standard.)
- Use a written consent form. The form should clearly identify:
 - The patient’s status (incapacitated)
 - The name and relation of the surrogate
 - The decision being made
 - The risks, benefits, alternatives, and who will perform the procedure
- Ensure there is at least **one witness** when the surrogate signs (as per good practice / NABH norms)
- The person performing the procedure (or a designated qualified clinician) should take the consent.

In Case of Emergency

- If the patient is incapacitated and no surrogate is immediately available, but delay could jeopardize life / limb:
 - The treating physician (along with another clinician, ideally) can make a decision in the **best interest** of the patient. (This is aligned with NABH interpretation.)
 - Document the justification, decision, and all efforts made to contact potential surrogates.

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Advance Directives / Living Will

- If the patient has an **advance medical directive** (legal in India) or a “living will,” check whether it names a surrogate.
- If such a directive exists and is valid, follow its instructions, provided they are applicable and consistent with medical judgment.
- If no directive exists and no surrogate is available, in very difficult or end-of-life cases, the hospital may need to involve legal / ethical committees. For example, in India, courts have been involved when there is no surrogate.
- Once surrogate consent is obtained, record in the patient’s medical record: surrogate’s name, relation, capacity discussion, consent form.
- Reassess capacity periodically if there is a possibility of recovery (e.g., after sedation, acute illness).
- Report and review any cases of surrogate decision-making in hospital quality / ethics committee meetings.

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