

**Social Work Conference Call  
Meeting Summary  
July 1, 2009**

**Facilitators:** Paige Hector, LMSW with CARES; TammyJo Granado, BSW with JacksonWhite  
Thank you Jill Preston with JacksonWhite for your contribution from the Arizona Revised Statutes and Surrogacy Law.

***Conference calls are regularly scheduled meetings on the first Wednesday of each month at 12:30 PM. Call 1-888-482-3813 and enter the pass code of 3813 to join in!***

**Topics Discussed: (There are 4 pages to this summary)**

*Surrogate decision-making Issue 1:*

- Resident with 14 children but they disagree about what to do regarding mom's treatment. Resident is kept alive with ventilator. Nine of the children want to discontinue the life support but the rest are adamantly opposed, and in fact have gotten into physical brawls on the facility property over this issue. Resident is on hospice and they maintain much contact with all the children, including family meetings with the IDT team. Family finances limited so guardianship and conservatorship were not pursued. **Suggestion by social worker from JacksonWhite:** There is an option to pursue a "one-time transaction" by which the family could petition for guardianship on an emergency basis. A one-time hearing is conducted in front of the judge with counsel. The only cost is that to file the petition. While the burden of proof is on the petitioner, this is still a viable option when finances are limited. *The surrogate law does recognize the majority of these children as the lawful decision makers and the facility/health care community could legally discontinue life support based on the nine that wanted to do so as they are the majority. HOWEVER, because of the family history, the fear of lawsuit from the non-majority children may prevent the health care professionals from following surrogate rule; hence, the recommendation to pursue guardianship.*

*Surrogate decision-making Issue 2:*

- Resident had six biological children, but three of them were later adopted by a stepfather, leaving only three as his legal children. This gentleman was in a persistent vegetative state, on a ventilator, with no brain activity - no possibility of recovery or any quality of life. (Resident has since passed away naturally but the case is quite interesting). One biological adult child did not want to participate in any decision-making. The three that were adopted out did want a part in the decision-making about the code status. They wanted the resident to be a full code. The remaining two legal children were split on whether or not he should be full code or DNR. One biological child was being strongly influenced by the adopted children to keep resident a full code but eventually changed his mind to a DNR. The facility determined (along with the hospice) that only the legal children could act as decision makers, since the ones that were adopted out were no longer his

legal children. *Determination: The facility took the correct position according to surrogacy law. An additional suggestion was that the family could have pursued guardianship since any interested parties have the right to participate. This would have allowed the three adopted children to still have a voice via the court system.*

#### **Relevant Definitions from Arizona Revised Statutes (A.R.S.):**

##### **ARS §14-1201**

"Child" includes a person who is entitled to take as a child under this title by intestate succession from the parent whose relationship is involved. Child excludes a person who is only a stepchild, a foster child, a grandchild or a more remote descendant.

##### **ARS §36-3231**

2. An **adult child** of the patient. If the patient has more than one **adult child**, the health care provider shall seek the consent of a majority of the **adult** children who are reasonably available for consultation.

##### **ARS §14-2302 "omitted child"**

For the purposes of this section, "omitted child" means a child who was born or adopted after the testator executed a will.

##### **ARS §8-117**

#### **Rights under adoption order**

**A. On entry of the decree of adoption, the relationship of parent and child and all the legal rights, privileges, duties, obligations and other legal consequences of the natural relationship of child and parent thereafter exist between the adopted child and the adoptive parent as though the child were born to the adoptive parent in lawful wedlock. The adopted child is entitled to inherit real and personal property from and through the adoptive parent and the adoptive parent is entitled to inherit real and personal property from and through the adopted child the same as though the child were born to the adoptive parent in lawful wedlock.**

**B. On entry of the decree of adoption, the relationship of parent and child between the adopted child and the persons who were the child's parents before entry of the decree of adoption is completely severed and all the legal rights, privileges, duties, obligations and other legal consequences of the relationship cease to exist, including the right of inheritance. This subsection does not apply to communication rights established pursuant to section 8-116.01.**

**C. If the adoption is by the spouse of the child's parent, the relationship of the child to that parent remains unchanged by the decree of adoption.**

*In the above two cases, one of the ultimate goals for the facility is to protect, and enhance if possible, the psychosocial functioning of all family members.*

- A resident's son arrived at the facility to transport mom to an appointment. Staff was concerned about ETOH use on his behalf. Their report was based on his unkempt physical appearance and an abnormal gait pattern in which he was prone to stumbling. The administrator, DON and social worker met with the gentleman and ETOH use was ruled out. It turned out that he had a neurological disorder. He was not offended by the questioning from facility staff.
- Other conference call participants also shared situations from their facilities in handling concerns related to ETOH use and suspected drunkenness of visitors. It is the facility responsibility to keep residents safe and the facility has every right (and an obligation) to investigate concerns, especially if it endangers residents or staff. Staff can report suspected drunkenness to police if the individual proceeds in driving or if assistance is needed in removing the individual from facility premises. Facility must also determine if an abuse report must be conducted for a resident if a visitor displayed harmful behavior.
- A few of the callers are new to Arizona and are finding the mental health system challenging. Briefly discussed process for Involuntary Evaluation and Emergency Admission for Evaluation but another option, if the resident is willing, is to transport the individual to Magellan (for Maricopa county) for evaluation and possible admission. Below is contact information for the RHBA Providers in Arizona. Social workers can always call these agencies for suggestions, etc. It was also recommended that if a resident is on ALTCS, the behavioral health team for ALTCS needs to be involved. Be sure to have all residents complete the Mental Health POA upon admission!

### Regional Behavioral Health Authority (RHBA) Providers

- **Northern Arizona Regional Behavioral Health Authority** – Coconino, Apache, Navajo, Mohave and Yavapai counties
  - 1-877-923-1400
- **Community Partnership of Southern Arizona** – Pima, Cochise, Graham, Greenlee and Santa Cruz counties
  - 1-800-771-9889
- **Magellan of Arizona** – Maricopa county
  - 1-800-564-5465
- **Cenpatico Behavioral Health of Arizona** – Pinal, Gila, Yuma and La Paz counties
  - 1-866-495-6738

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- Paige and Kathy Bailey from HSAG informed the group of the newly formed Arizona Long-Term Care Social Work Task Force. Discussed the overall objectives of the group and the goal to support social workers across that state as well as improve social work care in LTC.
- At the end of the call when most people had disconnected, a social worker called in with another question. Resident admitted to facility two days ago on hospice - non-responsive and declining. The two daughters need to take care of Mom's bills but no one has Financial POA. Since resident is no longer capable of participating in decision-making given her declining status, the FPOA document (as well as other advance directives) cannot be completed. Since death may be imminent, pursuing guardianship is not a viable option at this point. It is probable that the resident's property, etc will end up in probate.

*This information is not intended to constitute legal advice and should not be relied upon in lieu of consultation with appropriate legal advisors. The information is for informative or educational purposes only.*