

Information for Skilled Nursing Facilities in California Regarding the Temporary Hold on Witnessing of Advance Health Care Directives by the Long-Term Care Ombudsman Program

The California Long-Term Care Ombudsman (LTCO) Program is observing local, State and federally issued social distancing and quarantine orders as of this date. Although LTCO representatives are not entering facilities to witness Advance Health Care Directives (AHCDs) during the COVID-19 pandemic, California residents living in Skilled Nursing Facilities may choose to utilize California Probate Code 4711 to appoint a temporary health care surrogate. **Probate Code 4711 states:**

- (a) A patient may designate an adult as a surrogate to make health care decisions by personally informing the supervising health care provider. The designation of a surrogate shall be promptly recorded in the patient's health care record.
- (b) Unless the patient specifies a shorter period, a surrogate designation under subdivision (a) is effective only during the course of treatment or illness or during the stay in the health care institution when the surrogate designation is made, or for 60 days, whichever period is shorter.
- (c) The expiration of a surrogate designation under subdivision (b) does not affect any role the person designated under subdivision (a) may have in making health care decisions for the patient under any other law or standards of practice.
- (d) If the patient has designated an agent under a power of attorney for health care, the surrogate designated under subdivision (a) has priority over the agent for the period provided in subdivision (b), but the designation of a surrogate does not revoke the designation of an agent unless the patient communicates the intention to revoke in compliance with subdivision (a) of Section 4695.

Licensed facilities must comply with the conditions outlined in the code and provide any resident with information that enables them to exercise their personal right to designate and receive assistance from an appointed health care agent during the COVID-19 outbreak. In this circumstance, we are distributing a suggested form that residents can use to formalize their wishes and allow their agent to make healthcare decisions if needed. *The suggested form is provided with this letter. It may be copied and given to residents for their use.* **Note that designation of a temporary health care surrogate does not interfere with the fundamental right of residents to make their own health care decisions.**

Residents should be advised to speak directly with their chosen health care surrogate before designating them under Probate Code 4711. This is to ensure the designated surrogate is willing to act in that capacity, understands the resident's expressed wishes, and agrees to be guided by those decisions during the limited term designation.

Skilled Nursing Facilities serving residents who name a health care surrogate under the provisions of California Probate Code 4711 should maintain a complete list of those individuals. After COVID-19 quarantine restrictions are lifted, the LTCOP can revisit temporary designations with residents who wish to replace the document with an Advance Health Care Directive, witnessed by an Ombudsman representative.

Thank you for your commitment to residents receiving services in your facility during this difficult time.

Probate Code 4711 for Residents in Skilled Nursing Facilities

Skilled Nursing Facilities may use this form to record residents' oral designation of a temporary surrogate health care agent act on their behalf.

Today's Date: _____

Resident Name: _____

Naming Surrogate Health Care Agent

Add the full name and contact information of the person(s) the resident has chosen as a Surrogate Health Care Agent.

Name: _____

Address: _____

Telephone Number: _____

Alternate Contact – Name and Information: _____

Facility staff informed of the resident's designation of a Surrogate Health Care Agent and entering this documentation to the resident's personal health care record on this date:

Signature of Facility Staff _____
Date

Print Name and Title of Facility Staff

Facility staff should provide a copy of this document to the resident and the Surrogate Health Care Agent after completion and place the original document in the resident's medical record at the time it is completed.

NOTE: This is not an Advance Health Care Directive and does not require witnessing by the LTCO Program. This form documents the resident's oral designation of a temporary Surrogate Health Care Agent. This designation is effective for no more than sixty days and may be verbally revoked by the resident at any time. Designation of a temporary surrogate does not interfere with the fundamental right of residents to make their own health care decisions.