



Please don't let that person visit me ...

Who Gets to Visit You When You Are In the Hospital?

You are going to the hospital. Do you want visitors or do you want privacy? Is the visit in your best interest? Will the visitor put you under stress? Will the visitor take advantage of you? Who legally makes the decision of who may visit a patient?

A child tries to see Dad at the hospital and finds a new spouse blocking visitation. An adult child or Advance Directive agent tries to block a new spouse or a life partner from visiting. An alienated son causes stress to mom and the patient in the next bed. *Who controls visitation to a patient?*

Mom is hospitalized with full mental capacity. She has an Advance Medical Directive. Who controls visitation?

During capacity, the patient will normally control who may visit and may block any individual. The Patient can speak their wishes or present their Advance Medical Directive. Sentara's Patient visitation rights include the right to:

- Have visitors of your choosing without regard to race, color, national origin, religion, sex, sexual orientation, gender identity or disability.
- Have visitors of your choosing, not limited to: a spouse or a domestic partner (including same-sex domestic partner), another family member, or a friend, 24 hours a day, 7 days a week with some limitations.
- Tell us how, if at all, you would like your family to participate in your care and decision making.
- Access spiritual support while you are in the hospital.

Mom is hospitalized, legally incapacitated and has an Advance Medical Directive. Who controls visitation?

Mom cannot manage her own affairs so her named agent(s) under the Advance Directive will generally control visitation. Mom's Advance Directive becomes a powerful legal voice throughout her incapacity. The courts generally recognize an

agent's authority created while Mom had mental capacity and which is shown to be in Mom's best interests.

Mom is hospitalized, delirious and unable to respond. Mom does not have legal documents. Who controls visitation?

Without legal documents, Mom is legally silent as to who may visit. The Virginia Healthcare Directives Act identifies the following individuals to speak for an incapacitated individual without an Advance Directive during medical situations:

- Court-appointed Guardian
- Spouse unless an action for divorce has been filed
- Adult children of the patient/resident (majority rules for decision making)
- Adult siblings of the patient (majority rule)
- Any other relative in descending order of blood relationship
- Non-relatives where good faith efforts fail to locate relatives but there are limitations on decision making for this surrogate medical decision maker.

Minimize visitation conflicts by creating your Advance Medical Directive today, while you can. Specify visitation restrictions. Identify your incapacity decision makers in writing. Virginia's default list may include the individual you wished to avoid. Whenever possible, settle visitation conflicts amicably. Seek legal counsel to understand your legal rights before signing anything.

— Beth Ann R. Lawson, Esquire
Carrell Blanton Ferris and Associates, PLC

The information contained in this article does not constitute legal advice.

For more information on this topic, see page 3 for dates, locations and times of programs near you.