

1 WITHDRAWN

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3 RESOLUTION 69-09A

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5 **Title:** Qualifications of Court-Appointed Guardians Concerning  
6 End-of Life Decisions for Legally Incapacitated Individuals

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8 **Introduced by:** Michael Oleyar for the Medical Student Section

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10 **Original Author:** Jessica Slim, Wayne State University

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12 **Referred to:** Reference Committee C

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14 **House Action:** Withdrawn by Original Author  
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17 **Whereas, unless modified by court order, the duties and powers of a**  
18 **guardian include providing for a ward's medical care, and**

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20 **Whereas, the Michigan court system has no standard method of**  
21 **determining qualifications to serve as a guardian, which can therefore be**  
22 **determined in various ways, such as requiring the proposed guardian to**  
23 **attend a hearing, requiring proposed guardians to complete a guardianship**  
24 **home study, or simply requiring letters from people who will vouch for the**  
25 **proposed guardian<sup>1</sup>, and**

26  
27 **Whereas, a guardian may give any necessary consent or approval so**  
28 **that a ward can receive medical or other professional care, counsel, treatment,**  
29 **or services, and**

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31 **Whereas, a guardian's power to consent to a treatment carry with it the**  
32 **power to refuse treatment or request withdrawal, and**

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34 **Whereas, according to the court, agreement between a guardian and a**  
35 **ward's family members is not necessary if it compromises the course of action**  
36 **the guardian believes is necessary and vital to a ward's health<sup>2</sup>, and**

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38 **Whereas, a guardian can obtain additional protection from liability by**  
39 **petitioning for an order from the probate court authorizing the procedure<sup>3</sup>, and**

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41 **Whereas, guardians have challenged physicians' recommendations**  
42 **when they believed the physicians were recommending an intervention that**  
43 **was not in the best interest of the client and ultimately, took particularly**  
44 **difficult issues to the court and obtained a judge's opinion<sup>4</sup>, and**

45           Whereas, according to the chairs of the Detroit Receiving Hospital  
46 Ethics Committee Margaret L. Campbell, RN, PhD, FAAN, and Michael Stellini,  
47 MD, approximately half of the patients at Detroit Receiving who require  
48 guardians are represented by non-family members in the form of attorneys  
49 or guardian companies and that these guardians are usually unacquainted  
50 with the patients and don't participate in care planning, and

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52           Whereas, these hospital Ethics Committee members note that the  
53 committee works to establish end-of-life treatment goals for terminally ill  
54 patients and are often met with guardian resistance including a case of a 103-  
55 year-old patient with metastatic cancer where the guardian fought "to preserve  
56 life" under all circumstances, and

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58           Whereas, the guardian gravely misunderstood the moral and legal  
59 standards surrounding end-of-life decision-making for incapable persons, and

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61           Whereas, the Ethics Committee believes that guardians, in general, are  
62 inadequately educated about their responsibilities to serve their client's  
63 interests, and

64  
65           Whereas, guardians are given the authority to make medical decisions  
66 and challenge physicians' recommendations, yet are no more knowledgeable  
67 about moral and legal standards than a layperson; therefore be it

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69           **RESOLVED:** That MSMS work with hospital ethics committees and  
70 others to develop competency standards for guardians about participating  
71 with the clinical team when making medical decisions regarding end-of-life  
72 care for terminally ill patients.

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75 **WAYS AND MEANS COMMITTEE FISCAL NOTE: NONE**

<sup>1</sup>Kelly, M. J., Curtis, J.A., & Roane, R.A. (2008). Michigan Family Law Volume (6th ed.). Michigan: The Institute of Continuing Education; 21:1-70.

<sup>2,3</sup> Harter, P.E. & Trainer, T.V. (2007). Michigan Guardianship and Conservatorship Handbook (Rev. ed.). Michigan: The Institute of Continuing Education; 4:8-12.

<sup>4</sup> Taylor HA, Black BS, Rabins, PV: Deciding in the best interest of clients with Dementia: the experience of public guardians, J Clin Ethics. 2008 Summer; 19(2):120-6.