

DISCUSSION FRAMEWORK
Division of Developmental Services
Ethics Committee

August 2001

In order to assure there is a systematic and complete discussion of the questions brought to the Ethics Committee, the following framework will serve as a check to be sure all the critical issues have been addressed.

1. A description of who the person is, being sure to address the person's satisfactions from activities, interpersonal relationships, stage of life, self-determination, and awareness.
2. The medical diagnosis and the information that supports this diagnosis.
3. The medical prognosis.
4. The goals of medical care (e.g., full treatment, modified treatment, comfort care only).
5. The treatment options, their possible benefits and burdens for the person and the likelihood of each, the effects of each option on the person's prognosis, and the professional's recommendations.
6. A determination of whether the person has previously expressed treatment preferences through any means.
7. A determination of whether there are family members or concerned others available to participate in the decision-making process.

Decisions about treatment by a surrogate should follow the following three standards.

- 1. Follow the person's explicit directives.** Where a person has expressed clear desires and preferences about treatment the surrogate should follow the directions.
- 2. Or apply the person's preferences and values (Substituted judgment).** If the person has left no directions about the treatment in question, the surrogate should apply what is known about the person's preferences and values, trying to choose as the person would want.
- 3. Or choose as a reasonable person in the person's circumstances would (Best interest).** If there is not enough known about the person's directions, preferences, and values to make an individualized decision, the surrogate should choose so as to promote the person's interests as they would probably be conceived by a reasonable person in the person's circumstances, selecting from within the range of choices that reasonable people would make. In order to flesh out this standard, we suggest below the major considerations involved in applying it to some important categories of people:

- (i) **The person who is terminally ill.** In applying the "reasonable person" standard to the terminally ill person without decision-making capacity, the major considerations are usually whether foregoing treatment will allow the person to avoid the burden of prolonged dying with pain or suffering, and whether the person has the potential benefit of achieving some satisfaction if he or she survives longer.

- (ii) **The person who has an illness or disabling condition that is severe and irreversible.** In applying the "reasonable person" standard to the person with an illness or disabling condition that is severe and irreversible and who lacks decision-making capacity, the major consideration is the following: would a reasonable person in the person's circumstance probably prefer the termination of treatment because the person's life is largely devoid of opportunities to achieve satisfaction, or full of pain or suffering with no corresponding benefits?