

When medical decisions need to be made for a Veteran who lacks capacity to make these decisions, a surrogate must be located. An “unbefriended” Veteran is one who lacks decision-making capacity, lacks advance directives, and has no family or friends available to serve as a surrogate decision maker.¹ With the exception of medical emergencies, legal guardianship for medical decision-making may be needed in these cases.

A related term is “adult orphan” or “elder orphan” which refers to an adult who retains capacity but lacks advance directives and surrogates.²

Incapacitated, Socially Isolated Veterans In Need of Surrogates (“Unbefriended”)

EDUCATIONAL HANDOUT SERIES

VA



U.S. Department of Veterans Affairs
Veterans Health Administration
Employee Education System

Real Life Examples

- A Veteran has had a stroke which impairs his communication abilities. He has no Next of Kin or emergency contacts listed. He is determined to lack medical decision-making capacity and a surrogate is needed to authorize his admission to a rehabilitation unit.
- A homeless Veteran presents with an infection that will require an amputation. He is determined to lack medical decision-making capacity. His friend is unwilling to serve as surrogate and the Veteran is estranged from family.

What VA Policies may apply?

VA Clinicians must follow VA laws, regulations and policies, in addition to clinical practices, when treating Veterans and sharing Veteran health information. The VA follows a default surrogate consent policy: if a health care agent has not been named, surrogates are sought in the following priority order from the

VHA Handbook 1004.01 on Informed Consent:

- a. Health Care Agent.
- b. Legal guardian or special guardian.
- c. Next-of-kin. The next-of-kin is a relative, 18 years of age or older, in the following order of priority: spouse; child; parent; sibling; grandparent; grandchild.
- d. Close friend.

The Handbook further states, “Each facility must have a procedure in place for identifying surrogates, including, if necessary, examining personal effects, health records, and other VA records such as benefits and pension records. If a surrogate is identified, an attempt to contact that person by telephone must be made within 24 hours of the determination that the patient lacks decision-making capacity.”

- Check with your local VA for specific policies that may apply.
- Consult with your medical center’s ethics committee, colleagues at your institution, or the VA Privacy Officer or District Counsel to ensure any state-specific or local procedures are followed.



How do I understand this person’s values and preferences?

This may be especially challenging if the Veteran’s ability to communicate is impaired. Ideally, get as much information as you can directly from the Veteran. If the Veteran is unable to communicate, use the following questions and suggestions to guide your search for information about the Veteran³

Biography	What is the Veteran’s general history of education, occupation, relationships, and interests? What is the Veteran’s history of physical and mental health? If unable to interview the Veteran, review the medical record or speak with others who have known the person. Why was this Veteran socially isolated? What led up to the current medical issue?
Social Support	Did the Veteran ever marry, have a romantic partner, or have children? Does the Veteran have siblings or extended family? Was the Veteran in touch with neighbors, a landlord, coworkers, or acquaintances? Did the Veteran attend religious services? Did the Veteran have a “chosen family” or non-traditional family? Any of these people could potentially serve as a surrogate or provide information about the Veteran’s wishes.
Past Healthcare Decisions	What medical decisions have previously been made by the Veteran? Has the Veteran refused treatment in the past? Previous notes may indicate preferences for certain treatments or approaches.
Community Connections	Take a team-based, interdisciplinary approach – enlist the support of other professionals whenever possible. Obtain records from other hospitals or medical facilities where the Veteran received treatment.



What can I do to help?

- Enhance capacity and communication
 - Ensure the Veteran is comfortable and address any sensory deficits.
 - Provide information in simple language and in multiple formats.
- Assess relevant capacity domains
 - Guardianship should be limited to only those domains for which the Veteran lacks capacity.
 - See handouts on capacity assessment available at the VA TMS System. Please search the course catalog by keyword ‘capacity’.
- Respect the Veteran’s values and wishes
 - Consider the Veteran’s wishes even if they are deemed to lack capacity.
- Take a team-based approach
 - Enlist the assistance of colleagues and relevant groups (such as your medical center’s ethics committee) since team consensus is preferred over individual decision-making to provide procedural fairness.^{1,5}



What can I do to help?

- Enlist a surrogate
 - Consider non-traditional surrogates who know the Veteran well and will be available over the long term.
 - Refer to your local public guardianship program.
 - When a surrogate has been assigned, communicate your understanding of the Veteran's wishes, values, and history.



How can I prevent these situations?

- Promote advance directive completion among Veterans at risk for becoming unbefriended.
- Identify which Veterans are socially isolated and refer to appropriate VA or community programs to reduce social isolation (e.g. therapy groups, senior centers, volunteer organizations, etc.)
- Discuss healthcare values and wishes with all Veterans.
Check out The Conversation Project at <http://theconversationproject.org/> for more ideas.



Acknowledgement and Disclaimer

This handout was developed as part of an educational effort sponsored by the VHA Employee Education System and the VHA Office of Geriatrics and Extended Care. This handout is one from the Assessment of Decision Making Capacity Handout Series which links to a VA TMS educational activity. Information presented in this handout was based on the consensus of the educational planning committee considering research, practice, and general principles at the time of its drafting. The purpose of this document is for education. The contents should not be construed as policy, but rather as an educational resource that may be useful and effective in clinical practice. VA Clinicians must follow VA laws, regulations and policies, in addition to clinical practices, when treating Veterans and sharing Veteran health information. Links to free clinical resources may be included in the handout but should not be construed as official endorsement of these tools.

Cite as: Catlin C, Farrell TW, Page K, Morrow A, Mills WL, Dumas P, Cooper V, Guzman J, McConnell E, Moyer J. Incapacitated, Socially Isolated Veterans In Need of Surrogates ("Unbefriended") Handout (VHA EES Assessment of Decision Making Capacity Handout Series). Washington DC: VHA Employee Education System.

Additional Resources at: Additional Resources are available at the VA TMS system. Please search the course catalog by keyword 'capacity'.

References:

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