



Language to Use When Facing Pushback from Medical or Hospice Staff

Maybe the most effective statement is:

1. **"You are doing this treatment without my consent and it goes against the patient's wishes. I want my lack of consent put into the patient's medical record."** Say this loud and clear when staff ignores you as a surrogate, and they want to disregard the directive. Hopefully, this should put the fear of a lawsuit into the staff's minds and make them reconsider. It is important to leave a paper trail, **insist your treatment denial is put into the patient's medical record.**
2. **Another comment to get your point across is: "You have declared the patient incapacitated; I have the patient's medical POA giving me the right to make her healthcare decisions."** Carry the POA with you, so there is no doubt that you are the person in charge of honoring the patient's directive.
3. **When you have a conflict with staff about treatment, "I really don't want to have to call my attorney, but I will." or "Please call your legal department to review this case immediately."** This may serve as a wake-up call to staff you won't back down.
4. **When it's an issue with hospice, "Isn't hospice supposed to stay ahead of the pain? Dad has a legal right to pain relief, please put my concerns about undertreatment of pain in his chart."** Ask to speak with the hospice medical director to explain why they are withholding pain meds. Ask for a care plan; if staff deviates either by overtreating or undertreating, it's a violation of the law. If your area has other hospices, tell them you are considering moving your loved one.
5. Do not hesitate to say **"Let me get my surrogate consultant on the phone."** Remember, I'm available at no cost to help you honor the advance directive. I will review your documents, lay out your options, and even speak with the physician, if necessary. My goal is to help you assert your legal authority as the surrogate in order to honor your loved one's wishes. If my efforts are unsuccessful, FEN attorney Robert Rivas is available to help you also, at no cost. **My phone: (800) 491-6713**

In Georgia, Jacqueline Alicea won a \$1 million settlement from Doctors Hospital of Augusta and a surgeon there (from their insurers, more accurately). They had placed her 91-year-old grandmother on a ventilator, disregarding both Ms. Alicea's instructions as her grandmother's health care proxy and her grandmother's advance directive. That meant Ms. Alicea had to eventually order life support be removed, a wrenching decision. The Supreme Court of Georgia denied the defendants' immunity claims, ruling **"it is the will of the patient or her designated agent, and not the will of the health care provider, that controls."**

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