



END OF LIFE PLANNING FOR PROTECTED PERSONS

**Medical Decisions
Directives and End of
Life Directives**

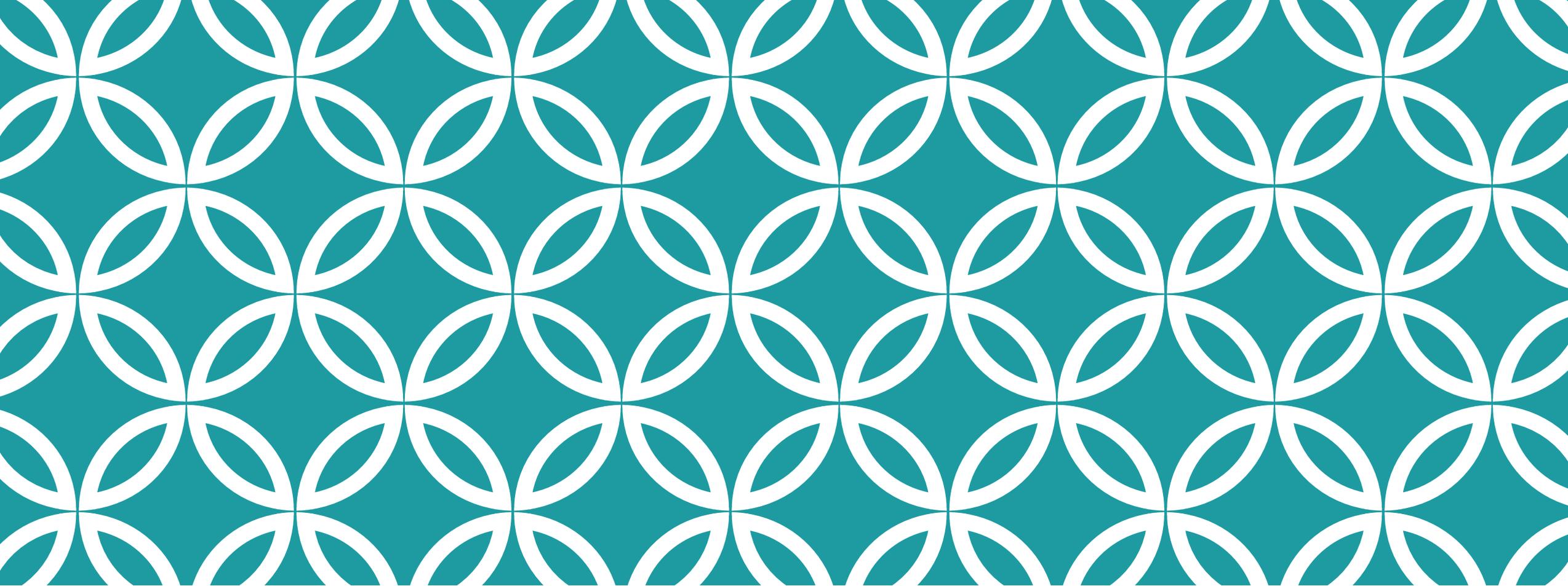
THIS
DISCUSSION IS
DIVIDED INTO
TWO SECTIONS



Medical
Decisions
Directives



End of Life
Directives and Final
Arrangements



MEDICAL DECISIONS DIRECTIVES



**MEDICAL
DECISIONS
DIRECTIVES**

Unaccommodating language

Special Note

NMSA 45-5-312 (D)

NMSA 24-7A-6 (B)

LANGUAGE TO USE: MEDICAL TREATMENT DECISION MAKER

New Mexico Uniform Health Care Decision Act NMSA 24-7A-1 et seq.

- Identifies Power and Duty of Guardian
- Definitions NMSA 24-7A-1(E-G)
 - Guardian
 - Health Care
 - Health Care Decision
- Decisions By Guardian NMSA 24-7A-6
- Obligations of Healthcare Provider NMSA 24-7A-7(D)
- Health Care Information NMSA 24-7A-8
- Immunities Under the Act NMSA 24-7A-9

GENERAL POWERS AND DUTIES OF THE GUARDIAN NMSA 45-5-312

NMSA 45-5-3-312 (B)(3) states the guardian shall make health care decisions for the Protected Person in accordance with the values of the Protected Person, if known, or in the best interests of the Protected Person, if the values aren't known.

NATIONAL GUARDIANSHIP ASSOCIATION (NGA) STANDARD 14 – DECISION MAKING ABOUT MEDICAL TREATMENT

The guardian, in making health care decision or seeking court approval for a decision shall:

- Maximize participation of the Protected Person,
- Acquire a clear understanding of the facts,
- Acquire a clear understanding of the options and risks and benefits of each option,
- Encourage and support the Protected Person in understanding facts and directing a decision.

Use Substituted Judgment for Protected Person unless the guardian cannot determine the Protected Person's wishes.

To the extent possible the guardian shall act in accordance with the Protected Person's prior general statements, actions, values, and preferences to the extent known or ascertained by the guardian.

If the Protected Person's preferences are unknown and unascertainable, the guardian will make decisions in the protected person's best interest.

NATIONAL GUARDIANSHIP STANDARD 14

If the guardian cannot ascertain a Protected Person's wishes or there is an emergency medical situation then the guardian must apply criteria in NGA standards 6 & 7:

- Informed consent – the Protected Person's agreement to a particular cause of action;
- Substituted judgment – a decision made by the guardian based upon the decision the Protected Person would have made if they had capacity;
- Best interest – used only when the Protected Person's preferences cannot be ascertained. Requires the guardian to consider past practice and evaluate reliable evidence of likely choices.

The guardian shall seek a second opinion for any medical treatment that would cause a reasonable person to do so, or the medical treatment poses a significant risk to the Protected Person.

The guardian shall speak directly with the physician before making a medical decision.

NATIONAL GUARDIANSHIP STANDARD 14

The guardian may not authorize extraordinary procedure without authorization from the court.

- Psycho surgery
- Experimental treatment
- Sterilization
- Abortion
- Electro Shock Therapy

NATIONAL GUARDIANSHIP ASSOCIATION (NGA) STANDARD 15 – DECISION MAKING ABOUT WITHHOLDING AND WITHDRAWAL OF MEDICAL TREATMENT

Recognize that there are circumstances in which it is legally and ethically justifiable to withhold or withdraw medical treatment. In making this decision, it must be made under the presumption in favor of continued treatment for the Protected Person.

If the Protected Person had expressed or currently expresses a preference regarding withholding or withdrawing medical treatment, the guardian shall follow the wishes of the Protected Person.

When making this decision, apply the criteria in Standards 6 and 7.

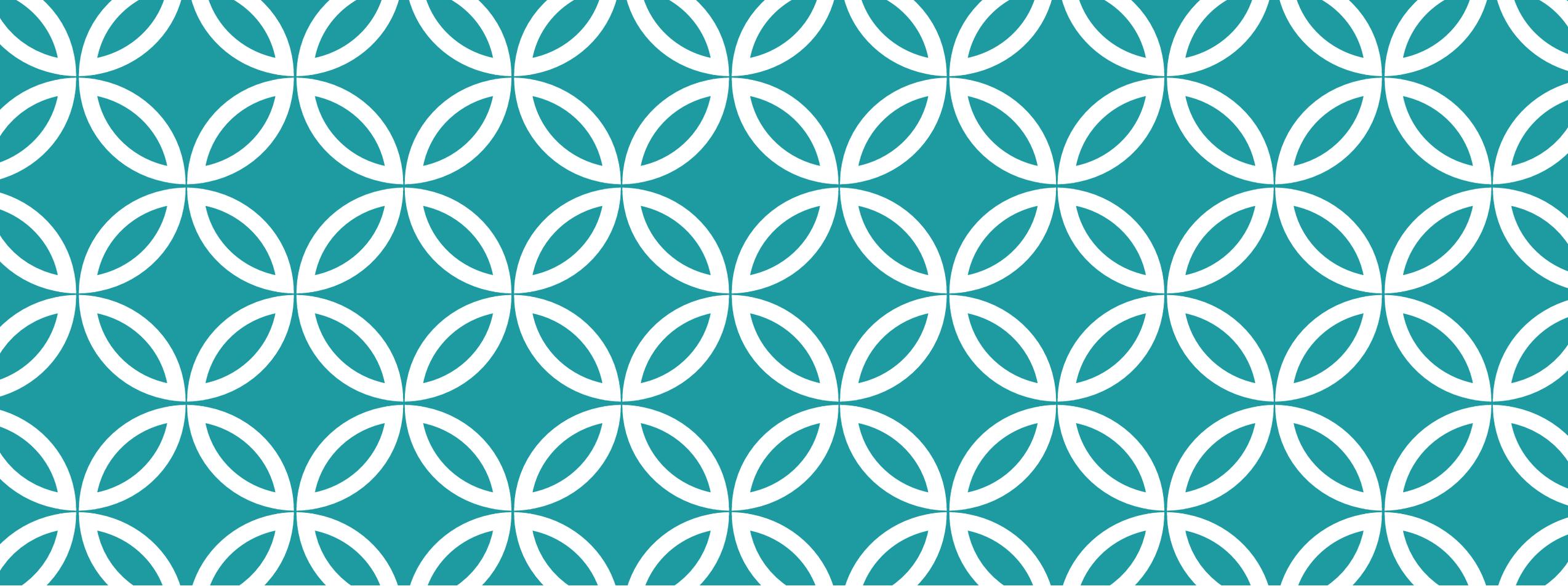
- Informed Consent
- Substituted Judgment
- Best Interest

HAVING THE CONVERSATION WITH THE PROTECTED PERSON

Remember – it's often an on-going conversation.

Creating a Values History

- Include questions about serious illness, hospitalization, and care at the hospital
- Include questions about the end of life such as who to contact, burial or cremation preferences.
- **FIVE WISHES FORM**
 - who to call
 - Life support
 - Comfort from pain
 - Care
 - What you want loved ones to know and what to do with remains
- **MOST FORM**
 - Medical Orders for Scope of Treatment (MOST)
 - Discuss medical interventions
 - Discuss emergency response (EMS-DNR Form)
 - Discuss administering hydration and nutrition artificially requires a physician signature
 - Where to download or call



END OF LIFE DIRECTIVES AND FINAL ARRANGEMENTS





WHEN DEATH APPEARS IMMINENT

The guardian Coordinator should notify any known family and friends for final visits.

The guardian Coordinator should review the End of Life Directive which you created.

**ENACT THE PLAN
FOR
DISPOSITION OF
THE BODY**

**The Family will handle
burial or cremation.**

**Indigent County Cremation
NMSA 23-13-1**

Tribal Burial

**ENACT THE PLAN
FOR DISPOSITION OF
THE PROTECTED
PERSON'S
ASSETS/BELONGINGS**

Family

Donations

Bank account balances

Special Needs/ABLE Trusts

File Final Report with
the District Court

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graph TD; A[File Final Report with the District Court] --> B[Death Certificates]; B --> C[Guardianship Ends];
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Death Certificates

Guardianship Ends

**FINAL
GUARDIAN
ACTIVITIES**

**SAMPLE
SCENARIOS:**

**DRAFTING
MEDICAL
DECISIONS
DIRECTIVES AND
END OF LIFE
DIRECTIVES**



SAMPLE SCENARIO 1

Protected Person 1 is a 99-year-old female. The Guardian Coordinator has been with her for 10 years. The diagnosis is dementia. Ten years ago the Protected Person had more lucid moments and the Guardian Coordinator heard her reminisce about her childhood in Ohio where she grew up on a farm. Protected Person 1 is not on any medications. When the Guardian Coordinator was first appointed Protected Person 1 was mobile and verbal. Protected Person 1 is now wheel-chair bound and is verbally limited. She has no family. She has no visitors. She has a roommate with whom she is cordial. She continues to have a good appetite and may participate in activities at the nursing home. The Guardian Coordinator has been unable to discuss any medical decisions or end of life arrangements because of dementia. There is not a MOST form or EMS/DNR in place. Protected Person 1 has a burial plan.

PROTECTED PERSON 1

MEDICAL DECISIONS DIRECTIVE

NAME: _____

Protected Person 1 shall not have life sustaining intervention if hospitalized for any cause that is considered a medical futility.

GUARDIAN COORDINATOR: _____

DATE: _____

PROTECTED PERSON 1

END OF LIFE DIRECTIVE

NAME: _____

1. Protected Person 1 shall be buried according to the conditions of her burial policy.
2. There are no known relatives or friends to contact.
3. Protected Person 1 has clothing, a radio, and a TV. These items shall be donated to the nursing home where Protected Person 1 is residing for distribution among the residents.

GUARDIAN COORDINATOR: _____

DATE: _____

SAMPLE SCENARIO 2

Protected Person 2 is a 40-year-old male. The Guardian Coordinator was appointed 6 months ago. His diagnosis is severe autism, anxiety, depression, and seizures. Protected Person 2 is on numerous medications. He has been in a family supported living home for the last five years. Protected Person 2 is on a DD Waiver and attends a day program. He has a father who visits several times a month. Father has established an ABLÉ account for his son who inherited the sum of \$10,000 when his grandmother passed.

SAMPLE SCENARIO 3

Protected Person 3 is a 55-year-old male. The Guardian Coordinator was appointed 3 years ago. The diagnosis is schizophrenia and explosive personality disorder. Protected Person 3 lives in a boarding home. He takes medications. The Guardian Coordinator has learned from Protected Person 3 that he has been an odd job worker his entire life. Protected Person 3 spends his days walking, going to thrift stores, and food banks. He has “street” friends. Protected Person 3 states that he has two siblings, but the Guardian Coordinator cannot locate them. The Guardian Coordinator completed the Five Wishes document when he/she first began working with Protected Person 3. The Guardian Coordinator is attempting to set aside \$5 per month towards a burial plan.

**DON'T
FORGET!!!!**

DOCUMENT

DOCUMENT

DOCUMENT



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