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MURRAY S. LOVE
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CAROL SIKOV GROSS *
JAMES R. BAKER

IN REPLY, PLEASE REFER TO FILE NO.

June 4, 2025

Dr. Dennis Gabos
<dennysgabos@gmail.com>

RE: Health Care Representative Information

Dear Dr. Gabos:

This letter is in response to your inquiry about the legal authority of family members to make medical decisions and communicate and receive information for incapacitated loved ones who do not have a Health Care Agent designated under a Power of Attorney or a Guardian of the Person. You indicated that in light of your brother's worsening condition and your desire to have information shared with you and to participate as a decision- maker in compliance with healthcare law you are seeking advice regarding the means to do so.

I directed your attention to 20 Pa.C.S. § 5461 (Decisions by health care representative), which provides that where an adult is incapacitated and lacks an available Health Care Agent, Guardian, or other authority, a family member may step in as the person's representative to make medical decisions. § 5461(a).

In the event that the person lacks a spouse, adult child, or surviving parent (or where such individuals are unavailable), an adult sibling may act as representative. § 5461(d). The authority of a Health Care Representative is the same as an Agent under Power of Attorney. § 5461(c). The Representative can act without Court approval. § 5461(j). Multiple family members can serve as Representatives, with disagreements generally preferring the majority, although deference to the majority is not mandatory. § 5461(g). In the event of a tie decision, the Representatives must overcome their differences themselves.

Medical staff may require you to submit a written declaration. § 5461(k). You should note your relationship to your brother, that he does not have any closer kin, and that he is unable to make decisions for himself. You also need to attest the statement under penalty of perjury. You may use similar language to 'I understand that false statements herein are

subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.' Finally, after submitting yourself as Health Care Representative, you must inform any kin who are siblings or closer of your assumption of this role. § 5461(h).

From the information provided, it appears that your brother, Bobby, has been and will continue to be incapacitated and requires a health care decision-maker given his declining and worrying condition. You are an appropriate relative who can assume the role of Health Care Representative in communicating with his doctors and making medical decisions. This responsibility is similar to the role of an agent.

Feel free to forward this letter to any medical professional who requires it. In the event that other family members wish to participate, it would be best for everyone to remain informed and discuss disagreements in advance so as not to delay any necessary decisions for your brother.

If anyone has any questions about the role of Health Care Representative or its authority, they may contact me or their own counsel.

Very truly yours,

SIKOV AND LOVE, P.A.

By: James R. Baker
James R. Baker, Esquire