

Chapter Thirteen Questions

1. Which answer below includes the two sources cited by the United States Supreme Court in affirming the right of Americans to name surrogate decision-makers?
 - A. _____ The Medicaid Eligibility Handbook and the Code of Federal Regulations
 - B. _____ The Texas Health and Safety Code and the Texas Probate Code
 - C. _____ The Due Process Clause and the common-law doctrine of informed consent
 - D. _____ The Rule Against Perpetuities and the Texas Administrative Code

2. In its decision in 1990 affirming the right of Americans to name surrogate decision-makers, the U.S. Supreme Court held that states could require that individuals make known their choice by “clear and convincing” proof. Which one statement below is correct?
 - A. _____ The “clear and convincing proof” standard is a lower standard of proof than the “preponderance of the evidence” standard.
 - B. _____ The “clear and convincing proof” standard is a higher standard than “proof beyond a reasonable doubt.”
 - C. _____ The “clear and convincing proof” standard is a higher standard than the “preponderance of the evidence” standard, but it is a lower standard than “proof beyond a reasonable doubt.”
 - D. _____ States have no authority to determine what the standard of proof will be, which applies to surrogate decision matters.

3. Which one statement below is correct regarding House Bill 1420 from the 77th Texas Legislature?
 - A. _____ It requires Area Agencies on Aging to prepare advance directives.
 - B. _____ It forbids Area Agencies on Aging from preparing advance directives.
 - C. _____ It establishes a process by which Area Agencies on Aging can offer preparation of advance directives, after their Benefits Counselors successfully complete a certification process.
 - D. _____ It requires Medicare providers to prepare advance directives for patients.

4. In Texas, which document is sometimes called a “living will?”
 - A. _____ The General Durable Power of Attorney
 - B. _____ The Appointment of an Agent for Disposition of Remains
 - C. _____ The Declaration of Guardian in Event of Later Incapacity or Need of Guardian
 - D. _____ The Directive to Physicians and Family or Surrogates

5. In the field of advance directives in Texas, a condition that is incurable and that even with medical care is likely to result in death within six months, is called (Choose one):

- A. _____ Terminal
- B. _____ Irreversible
- C. _____ Palliative
- D. _____ Acute

6. In the field of advance directives in Texas, a condition that can be treated but not cured, and that leaves the person unable to take care of himself or herself, and that is fatal without life-sustaining treatment, is called:

- A. _____ Terminal
- B. _____ Irreversible
- C. _____ Palliative
- D. _____ Acute

7. In the field of Texas advance directives, “life-sustaining treatment” does not include treatment for pain or comfort care.

T _____ F _____

8. How many witnesses are required for the Texas Directive to Physicians and Family or Surrogates form?

- A. _____ Four
- B. _____ Three
- C. _____ Two
- D. _____ One

9. Read the indented wording below to answer the question which follows:

(1) a relative of the declarant (by blood or marriage), (2) someone with a claim against the declarant’s estate, (3) the person designated by the declarant to make treatment decisions, (4) the attending physician or an employee of the attending physician, (5) an employee of the health care facility where the declarant is a patient if the employee is involved in caring for the declarant, or (6) a person involved in the ownership or admission of the health care facility, such as an officer or director or an employee in the facility’s business office.

What does the above indented wording describe (Choose one answer)?

- A. _____ Who cannot be a declarant in a Texas Directive to Physicians and Family or Surrogates.
- B. _____ Who cannot be a principal under a Texas Medical Power of Attorney.

- C. _____ Who at least one of the witnesses to a Texas Directive to Physicians, Medical Power of Attorney, and Out-of-Hospital Do-not-Resuscitate Order is prohibited from being.
- D. _____ Who cannot be the declarant under a Texas Declaration of Guardian in Event of Later Incapacity or Need of Guardian.
10. Once a Directive to Physicians and Family or Surrogates is signed, the declarant can never revoke it.
T _____ F _____
11. The Advance Directives Act does not allow the withholding or removal of life-sustaining treatment from a pregnant woman.
T _____ F _____
12. An agent under a Texas Medical Power of Attorney can decide alone when the medical power of attorney has sprung into effect; there is no need for the principal's attending physician to do anything in order for the agent to be able to make treatment decisions under a Texas Medical Power of Attorney.
T _____ F _____
13. If a principal of a Texas Medical Power of Attorney objects to a treatment decision by the agent under that Medical Power of Attorney, and the principal is incompetent, the principal's objection does not have to be heeded.
T _____ F _____
14. Once a principal has named an agent under a Texas Medical Power of Attorney, it is the wishes of the agent that are to be followed; knowledge of the wishes of the principal in regard to health treatment is irrelevant; the principal's wishes, even if known, no longer matter.
T _____ F _____
15. Under a Texas Medical Power of Attorney, there are no limits on the types of procedures for which an agent can give consent.
T _____ F _____
16. The Texas Medical Power of Attorney form has a space where the principal can write special instructions for the agent.
T _____ F _____
17. The agent under a Texas Medical Power of Attorney can be the principal's health care provider, unless the health care provider is related to the principal, in which case the health care provider, being a relative, cannot be the principal's agent.
T _____ F _____
18. What must the principal read and understand before signing the Medical Power of Attorney?
- A. _____ Chapter 166 of the Texas Health and Safety Code
- B. _____ Chapter 102 of the Texas Human Resources Code
- C. _____ The disclosure statement for the Medical Power of Attorney

D. _____ Chapter 12 of the Texas Probate Code

19. If the principal named the principal's spouse as agent under a Texas Medical Power of Attorney and if the principal and the agent later are divorced, the appointment of the agent is revoked automatically due to the divorce.

T _____ F _____

20. If a person executes a Texas Medical Power of Attorney and the court later appoints a guardian for the person, the Medical Power of Attorney is automatically revoked.

T _____ F _____

21. Insurance companies are permitted to discriminate against Texans who do not have Medical Powers of Attorney.

T _____ F _____

22. The Texas Consent to Medical Treatment Act operates throughout the U.S.

T _____ F _____

23. Which characteristic below differentiates the Texas Out-of-Hospital Do-not-Resuscitate Order from the Texas Directive to Physicians and Family or Surrogates and from the Texas Medical Power of Attorney?

A. _____ The Texas Out-of-Hospital Do-not-Resuscitate Order must be notarized; the other two documents do not have this requirement.

B. _____ The other two documents must be notarized; the Texas Out-of-Hospital Do-not-Resuscitate Order does not have this requirement.

C. _____ The other two documents are effective in emergency rooms; the Out-of-Hospital Do-not-Resuscitate Order is not.

D. _____ The other two documents do not have to be signed by the attending physician; the written Out-of-Hospital Do-not-Resuscitate form must be signed by the physician of the individual who executes it.

24. Once a person has executed an Out-of-Hospital Do-not-Resuscitate Order, the person can never revoke it.

T _____ F _____

25. If a Texan, mentally competent, wants to appoint another person to immediately handle a wide range of business affairs without any court action, which one document will be best to meet this need?

A. _____ The Medical Power of Attorney

B. _____ The Declaration of Guardian in Event of Later Incapacity or Need of Guardian

C. _____ An Application for Representative Payee

D. _____ The General Durable Power of Attorney

26. The Texas General Durable Power of Attorney must be acknowledged before a notary public.

T _____ F _____

27. A General Durable Power of Attorney gives the attorney-in-fact the authority to tell the principal what to do.

T _____ F _____

28. If a General Durable Power of Attorney is revoked and notice of revocation is published in a local shoppers' paper, the revocation is effective even against third parties in other cities who do not know about the revocation.

T _____ F _____

29. A person can have a General Durable Power of Attorney prepared by an attorney-at-law in such a way that it only becomes effective in case the principal later on becomes mentally incompetent.

T _____ F _____

30. The 77th Texas Legislature made it a requirement that attorneys-in-fact timely inform principals of all actions taken pursuant to a power of attorney.

T _____ F _____

31. The 77th Texas Legislature made it a requirement that attorneys-in-fact under Texas General Durable Powers of Attorney render an accounting within 60 days of the principal requesting the accounting.

T _____ F _____

32. Benefits Counselors who are not attorneys are not permitted to prepare the Texas General Durable Power of Attorney.

T _____ F _____

33. If an individual receives SSI and needs a person to manage the SSI benefit, which agency can appoint a representative payee?

- A. _____ The Probate Court
- B. _____ The Social Security Administration
- C. _____ The Veterans Administration
- D. _____ The Texas Health and Human Services Commission

34. Which statement below is not accurate?

- A. _____ An investigation by Social Security is required before the appointment of a representative payee.
- B. _____ The beneficiary does not have to be legally incapacitated for there to be a representative payee appointed.
- C. _____ The representative payee must report annually to Social Security, explaining how the benefits were used.

D. _____ A representative payee can seek state court judicial review of any adverse decision by Social Security.

35. A Representative Payee under Social Security must use the benefits first to pay for the current maintenance needs of the beneficiary, before paying debts of the beneficiary that arose before the Representative Payee was appointed.

T _____ F _____

36. If Social Security declines to appoint a person as Representative Payee, the person who sought appointment as Representative Payee has a right to appeal.

T _____ F _____

37. A beneficiary who does not want a Representative Payee has the right to appeal if a Representative Payee is appointed by Social Security.

T _____ F _____

38. Under Texas' Declaration of Guardian in Event of Later Incapacity or Need of Guardian, a person can actually forbid the court from appointing an unwanted individual as guardian.

T _____ F _____

39. Under Texas' Declaration of Guardian in Event of Later Incapacity or Need of Guardian, a declarant can nominate different individuals to serve as guardian of the person and as guardian of the estate.

T _____ F _____

40. If a declarant has executed a Texas Declaration of Guardian in Event of Later Incapacity or Need of Guardian, and a guardianship later on is needed, the judge will likely appoint the nominated individual as guardian unless the judge finds the nominee to be disqualified or otherwise not to be a person who would serve in the declarant's best interest.

T _____ F _____

Answer Key

Chapter Thirteen Questions

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|-----|---|-----|---|
| 1. | C | 22. | F |
| 2. | C | 23. | D |
| 3. | C | 24. | F |
| 4. | D | 25. | D |
| 5. | A | 26. | T |
| 6. | B | 27. | F |
| 7. | T | 28. | F |
| 8. | C | 29. | T |
| 9. | C | 30. | T |
| 10. | F | 31. | T |
| 11. | T | 32. | T |
| 12. | F | 33. | B |
| 13. | F | 34. | D |
| 14. | F | 35. | T |
| 15. | F | 36. | F |
| 16. | T | 37. | T |
| 17. | F | 38. | T |
| 18. | C | 39. | T |
| 19. | T | 40. | T |
| 20. | F | | |
| 21. | F | | |