

WEST VIRGINIA CODE: §16-3C-4

§16-3C-4. Substituted consent.

(a) If the person whose consent is necessary under this article for HIV-related testing or the authorization of the release of test results is unable to give such consent or authorization because of mental incapacity or incompetency, the consent or authorization shall be obtained from another person in the following order of preference:

- (1) A person holding a durable power of attorney for health care decisions;
- (2) The person's duly appointed legal guardian;
- (3) The person's next-of-kin in the following order of preference: spouse, parent, adult child, sibling, uncle or aunt, and grandparent.

(b) The person's inability to consent shall not be permitted to result in prolonged delay or denial of necessary medical treatment.

(c) The information required to be provided to the patient pursuant to subsections (b) and (d), section two of this article, shall be provided to the person giving substituted consent hereunder.