WEST VIRGINIA CODE: §16-4B-1

§16-4B-1. Autopsy on body of deceased persons in interest of medical science; who may perform; consent required; who may give consent.

In case of the death of any person in the State of West Virginia, except those deaths subject to autopsy being made pursuant to section ten, article twelve, chapter sixty-one of this code, the attending physician, or if there be none, any physician, if he or she deems it advisable in the interest of medical science or future health care of the deceased person's family, may perform or cause to be performed an autopsy on the body of such deceased person without liability therefor, provided consent to such autopsy is first obtained in writing or by telephone, if the telephone authorization is verified by a second person, from one of the following in the priority order stated: (1) The medical power of attorney representative; (2) if there is no medical power of attorney representative, the surviving spouse of deceased; (3) if there be no surviving spouse, then any child of deceased over the age of eighteen years: Provided, That the child's permission shall not be valid, if any other child of the deceased over the age of eighteen years objects prior to said autopsy and the objection shall be made known in writing to the physician who is to perform the autopsy; (4) if there be no surviving spouse, nor any child of deceased over the age of eighteen years, then the mother or father of deceased; (5) if there is no mother or father of the deceased, the health care surrogate, if one is appointed; (6) if there be no surviving spouse, nor any child over the age of eighteen years, nor mother or father, then the duly appointed and acting fiduciary of the estate of the deceased; or (7) if there be no surviving spouse, nor any child over the age of eighteen years, nor mother or father, nor duly appointed and acting fiduciary of the estate of deceased, then the person, firm, corporation or agency legally responsible for the financial obligation incurred in disposing of the body of deceased.

In the event the medical power of attorney representative, the health care surrogate, spouse, child or parent of deceased be mentally incompetent then the person authorized to consent to such autopsy shall be the next in the order of priority herein above defined.

As used in this section, the term "surviving spouse" shall mean any spouse of the deceased who is not legally separated from the deceased immediately prior to the death of the deceased.

WV Legislature