



STATE OF NEW YORK
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memorandum
Regulatory Affairs Unit

TO: Internet User

FROM: Barbara Brundage
Director, Regulatory Affairs Unit

DATE: March 27, 2006

RE: Notice of Adoption – The Revision of 14 NYCRR Section 633.11 – Medical Treatment - Expansion of the list of surrogate decision-makers.

Effective Date: November 23, 2005

Purpose:

The rulemaking expands the list of surrogate decision-makers who are authorized to make informed consent decisions, when professional medical treatment is recommended for a person who lives in an OMRDD operated or certified residence and the person is not able to make the decision for herself or himself. The revisions add actively involved siblings, actively involved adult family members and the Willowbrook Consumer Advisory Board to the existing list of surrogates authorized to make informed consent decisions.

In addition, the amendments recognize health care agents appointed by a health care proxy. Health care agents were authorized to make informed consent decisions in accordance with the provisions of other laws and regulations. However, they were not listed as a surrogate decision-maker in the previous regulation. The revisions also include guidance to assist providers in determining when it is appropriate to bypass surrogates because they are not "reasonably available."

The revisions also address the longstanding concern that professional medical treatment may be unnecessarily delayed because decision must be sought from a Surrogate Decisionmaking Committee or court instead of from an involved sibling or other adult family member, or the Willowbrook Consumer Advisory Board.

The revisions to the regulations went into effect on **November 23, 2005**.