

**Medical Treatment
Amendments to Section 14 NYCRR 633.11**

Emergency/Proposed Rulemaking

Effective date: On filing

- **Existing subparagraph 633.11 (a)(1) (iii) (a)(7) is amended and added to read as follows:**

(iii) Informed consent may be obtained for those persons who are residents of a facility operated or certified by OPWDD as follows:

(a) If a person is less than 18 years of age, consent shall be obtained from one of the surrogates listed, in the order stated:

- (1) a guardian lawfully empowered to give such consent;
- (2) an actively involved (see section 633.99 of this Part) spouse;
- (3) a parent;
- (4) an actively involved adult sibling (see section 633.99 of this Part);
- (5) an actively involved adult family member (see section 633.99 of this Part);
- (6) a local commissioner of social services with custody over the person pursuant to the Social Services Law or Family Court Act (if applicable); [or]
- (7) the Informed Consent Committee (see section 633.16 of this Part), convened by an individual's residential provider, for the limited purpose of providing consent for a COVID-19 vaccine; or
- (8) a surrogate decisionmaking committee (SDMC) (see section 633.99 of this Part) or a court of competent jurisdiction.

- **Existing subparagraph 633.11 (a)(1)(iii)(b)(7) is amended and added to read as follows:**

(b) If a person is 18 years of age or older, but lacks capacity to understand appropriate disclosures regarding proposed professional medical treatment or a determination of insufficient capacity has been made pursuant to clause (g) of this subparagraph, informed consent to such

proposed professional medical treatment shall be obtained from one of the surrogates listed, in the order stated:

- (1) a guardian lawfully empowered to give such consent or the person's duly appointed health care agent or alternative agent (see section 633.20 of this part and Article 29-C of the Public Health Law);
- (2) an actively involved spouse;
- (3) an actively involved parent;
- (4) an actively involved adult child;
- (5) an actively involved adult sibling;
- (6) an actively involved adult family member;
- (7) the Consumer Advisory Board (see section 633.99 of this part) for the Willowbrook Class [only for class members it fully represents];[or]
- (8) the Informed Consent Committee (see section 633.16 of this Part), convened by an individual's residential provider, for the limited purpose of providing consent for a COVID-19 vaccine; or
- (9) a surrogate decision making committee (SDMC) or a court of competent jurisdiction.