

STATE OF NEW YORK

6308

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. GONZALEZ-ROJAS -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting any substituted consent for a sterilization procedure

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section
2 2806-c to read as follows:

3 § 2806-c. Substituted consent for sterilization prohibited. 1. A
4 health care provider shall not perform a procedure resulting in sterili-
5 zation without the informed consent of the person being sterilized.
6 Substituted consent by a guardian, health care proxy, or other third
7 party shall not authorize a procedure resulting in sterilization in the
8 absence of the informed consent of the person being sterilized.

9 2. Applicability. This section shall not apply to procedures resulting
10 in sterilization that are necessary to preserve the life of an individ-
11 ual or prevent serious impairment to their physical health.

12 3. Supported decision-making. A person with a disability may voluntar-
13 ily and without undue influence or coercion enter into a supported deci-
14 sion-making agreement when considering a sterilization procedure. A
15 supported decision-making agreement shall authorize a supporter to
16 assist the person with a disability with any or all of the following, as
17 determined by the person with a disability, without making the decision
18 on behalf of the individual with a disability:

19 a. Understand the nature, benefits, risks, and consequences of steri-
20 lization and available alternatives;

21 b. Access, collect, and obtain information relevant to the decision
22 regarding sterilization, including medical, psychological, financial, or
23 treatment records;

24 c. Understand the information described in paragraph b of subdivision
25 four of this section; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD06960-01-3

1 d. Communicate the person with a disability's choice of a health care
2 provider or other appropriate person, if necessary and specifically
3 requested by the individual.

4 4. Obligations of health care providers. a. A health care provider
5 shall provide the information and accommodations a person with a disa-
6 bility needs to understand the procedure resulting in sterilization, to
7 make their own decision, and to avoid undue pressure or coercion. Such
8 information and accommodations may include but are not limited to:

9 (i) Providing explanations in a language or format the individual with
10 a disability understands;

11 (ii) Using pictures, demonstrations, videos, models, or other tech-
12 niques that may assist the individual to understand their options; or

13 (iii) Ascertaining the wishes of the individual without the presence
14 of a guardian, family member, or caregiver.

15 b. A health care provider shall not perform a sterilization if they
16 reasonably believe that the person with a disability lacks the capacity
17 to provide informed consent even with accommodations and supports. A
18 health care provider shall not presume that a person with a disability
19 lacks the capacity to provide informed consent solely on the basis of:

20 (i) their disability or diagnosis;

21 (ii) their use of supported decision-making;

22 (iii) their current or former placement under guardianship; or

23 (iv) a court's adjudication that the individual is incapacitated in an
24 area other than health care decision-making.

25 5. Definitions. As used in this section the following terms shall have
26 the following meanings:

27 a. "Person with a disability" means any person with a disability as
28 that term is defined in subdivision twenty-one of section two hundred
29 ninety-two of the executive law.

30 b. "Supporter" means a person who is not a person with a disability
31 who enters into a supported decision-making agreement with a person with
32 a disability.

33 c. "Health care provider" shall mean a practitioner in an individual
34 practice, group practice, partnership, professional corporation or other
35 authorized form of association, a hospital or other health care institu-
36 tion issued an operating certificate pursuant to this chapter or the
37 mental hygiene law, a certified home health agency or a licensed home
38 care services agency, and any other purveyor of health or health related
39 items or services including but not limited to a clinical laboratory, a
40 physiological laboratory, a pharmacy, a purveyor of X-ray or imaging
41 services, a purveyor of physical therapy services, a purveyor of health
42 or health related supplies, appliances or equipment, or an ambulance
43 service.

44 § 2. This act shall take effect on the ninetieth day after it shall
45 have become a law.