

# STATE OF NEW YORK

9116

## IN SENATE

April 26, 2024

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed 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

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

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

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

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

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

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

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

17 (i) their disability or diagnosis;

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

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

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

22 5. Definitions. As used in this section the following terms shall have  
23 the following meanings:

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

27 b. "Supporter" means a person who is not a person with a disability  
28 who enters into a supported decision-making agreement with a person with  
29 a disability.

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

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