§ 81.22 Powers of guardian; personal needs.

(a) Consistent with the functional limitations of the incapacitated person, that person's understanding and appreciation of the harm that he or she is likely to suffer as the result of the inability to provide for personal needs, and that person's personal wishes, preferences, and desires with regard to managing the activities of daily living, and the least restrictive form of intervention, the court may grant to the guardian powers necessary and sufficient to provide for the personal needs of the incapacitated person. Those powers which may be granted include, but are not limited to, the power to:

1. determine who shall provide personal care or assistance;

2. make decisions regarding social environment and other social aspects of the life of the incapacitated person;

3. determine whether the incapacitated person should travel;

4. determine whether the incapacitated person should possess a license to drive;

5. authorize access to or release of confidential records;

6. make decisions regarding education;

7. apply for government and private benefits;

8. (i) for decisions in hospitals as defined by subdivision eighteen of section twenty-nine hundred ninety-four-a of the public health law, act as the patient's surrogate pursuant to and subject to article twenty-nine-CC of the public health law, and (ii) in all other circumstances, to consent to or refuse generally accepted routine or major medical or dental treatment, subject to the decision-making standard in subdivision four of section twenty-nine hundred ninety-four-d of the public health law;

9. choose the place of abode; the choice of abode must be consistent

with the findings under section 81.15 of this article, the existence of and availability of family, friends and social services in the community, the care, comfort and maintenance, and where appropriate, rehabilitation of the incapacitated person, the needs of those with whom the incapacitated person resides; placement of the incapacitated person in a nursing home or residential care facility as those terms are defined in section two thousand eight hundred one of the public health law, or other similar facility shall not be authorized without the consent of the incapacitated person so long as it is reasonable under the circumstances to maintain the incapacitated person in the community, preferably in the home of the incapacitated person.

(b) No guardian may:

1. consent to the voluntary formal or informal admission of the incapacitated person to a mental hygiene facility under article nine or fifteen of this chapter or to a chemical dependence facility under article twenty-two of this chapter;

2. revoke any appointment or delegation made by the incapacitated person pursuant to sections 5-1501, 5-1601 and 5-1602 of the general obligations law, sections two thousand nine hundred sixty-five and two thousand nine hundred eighty-one of the public health law, or any living will.