*** § 82.04 Scope.**

(a) If a decision-maker voluntarily enters into a supported decision-making agreement with one or more supporters, the decision-maker may, in the agreement, authorize the supporter to provide support to them in making their own decisions in areas they choose, including, but not limited to: gathering information, understanding and interpreting information, weighing options and alternatives to a decision, considering the consequences of making a decision or not making it, participating in conversations with third parties if the decision-maker is present and requests their participation, communicating the decision-maker's decision to third parties if the decision-maker is present and requests their participation, and providing the decision-maker support in implementing the decision-maker's decision.

(b) Nothing in this article, nor the existence of an executed supported decision-making agreement, shall preclude the decision-maker from acting independently of the supported decision-making agreement or executing, with or without the assistance of supporters under a supported decision-making agreement, a power of attorney under title fifteen of article five of the general obligations law, health care proxy under article twenty-nine-C of the public health law, or other advance directive.

(c) Notwithstanding the existence of a supported decision-making agreement, a decision-maker shall continue to have unrestricted access to their personal information without the assistance of a supporter.

(d) Notwithstanding the existence of a supported decision-making agreement, a decision-maker may request and receive assistance in making any decision that is not covered under the supported decision-making agreement at any time and from any person, regardless of whether that person is designated as a supporter in the supported decision-making agreement.

(e) A supported decision-making agreement made pursuant to this article may be evidence that the decision-maker has a less restrictive alternative to guardianship in place.

(f) The availability of supported decision-making agreements is not intended to limit the informal use of supported decision-making, or to preclude judicial consideration of such informal arrangements as less

restrictive alternatives to guardianship.

(g) Execution of a supported decision-making agreement may not be a condition of participation in any activity, service, or program.

(h) If a decision-maker seeks from any person professional advice that would be otherwise covered by evidentiary privilege in accordance with sections forty-five hundred three, forty-five hundred four, forty-five hundred seven, forty-five hundred eight and forty-five hundred ten of the civil practice law and rules, the inclusion in the conversation of a supporter authorized by the supported decision-making agreement to provide support in the area in which the decision-maker seeks the professional advice shall not constitute a waiver of that privilege.

(i) Notwithstanding any other provision of law to the contrary, nothing within this article shall be construed to prohibit eligibility of a decision-maker for receipt of services or supports that they would have otherwise been entitled, including adult protective services, absent entering into a supported decision-making agreement under the provisions of this article.

(j) A supported decision-making agreement made between a decision-maker and his or her supporter or supporters after consultation and education, which is signed by a facilitator shall have the legal force and effect authorized under section 82.11 of this article.

* NB Effective 90 days from the date that the regulations issued in accordance with § 1 of chapter 481 of 2022 appear in the New York State Register or the date such regulations are adopted, whichever is later.