*** § 82.05 Duties, responsibilities, and authority of supporters.**

(a) A supporter must:

1. respect the decision-maker's right to make a decision, even when the supporter disagrees with the decision or believes it is not in the decision-maker's best interests;

2. act honestly, diligently, and in good faith;

3. act within the scope set forth in the executed supported decision-making agreement;

4. avoid conflicts of interest;

5. notify the decision-maker in writing, and in a manner the decision-maker can understand, of the supporter's intent to resign as a supporter; and

6. participate in facilitation and/or education programs developed under regulations promulgated by the office for people with developmental disabilities in order to enter a formal supported decision-making agreement.

(b) A supporter is prohibited from:

1. making decisions for the decision-maker, except to the extent otherwise granted in an advance directive;

2. exerting undue influence upon the decision-maker;

3. physically coercing the decision-maker;

4. obtaining, without the consent of the decision-maker, information acquired for a purpose other than assisting the decision-maker in making a decision authorized by the supported decision-making agreement;

5. obtaining, without the consent of the decision-maker, or as expressly granted by the supported decision-making agreement, and

accompanied by an appropriate release, nonpublic personal information as defined in 15 U.S.C. § 6809(4)(A), or clinical records or information under subdivision (c) of section 33.13 of this chapter; and

6. communicating a decision-maker's decision to a third-party without the participation and presence of the decision-maker.

(c) The relationship between a decision-maker and a supporter is one of trust and confidence and serves to preserve the decision-making authority of the decision-maker.

(d) A supporter shall not be considered a surrogate or substitute decision maker for the decision-maker and shall not have the authority to sign legal documents on behalf of the decision-maker or bind the decision-maker to a legal agreement, but may, if such authority is expressly granted in the supported decision-making agreement, provide co-signature together with the decision-maker acknowledging the receipt of statements of rights and responsibilities in order to permit participation in such programs or activities that the decision-maker has communicated a choice to participate in.

(e) If expressly granted by the supported decision-making agreement, and the decision-maker has signed an appropriate release, the supporter may assist the decision-maker in obtaining educational records under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. § 1232g), protected health information under the Health Insurance Portability and Accountability Act of 1996 (45 CFR §§ 164.502, 164.508), clinical records and information under subdivision (c) of section 33.13 of this chapter, or patient information under subdivisions two and three of section eighteen of the public health law.

(f) A supporter shall ensure the information obtained under subdivision (e) of this section is kept privileged and confidential, as applicable, and is not subject to unauthorized access, use, or disclosure.

* 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.