§ 2994-b. Applicability; priority of certain other surrogate decision-making laws and regulations. 1. This article shall apply to health care decisions regarding health care provided in a hospital, and to decisions regarding hospice care without regard to where the decision is made or where the care is provided, for a patient who lacks decision-making capacity, except as limited by this section.

1-a. This article shall also apply to decisions regarding orders not to resuscitate for a patient who lacks decision-making capacity in a hospital as defined by section 1.03 of the mental hygiene law.

2. Prior to seeking or relying upon a health care decision by a surrogate for a patient under this article, the attending practitioner shall make reasonable efforts to determine whether the patient has a health care agent appointed pursuant to article twenty-nine-C of this chapter. If so, health care decisions for the patient shall be governed by such article, and shall have priority over decisions by any other person except the patient or as otherwise provided in the health care proxy.

3. Prior to seeking or relying upon a health care decision by a surrogate for a patient under this article, if the attending practitioner has reason to believe that the patient has a history of receiving services for an intellectual or developmental disability; it reasonably appears to the attending practitioner that the patient has an intellectual or developmental disability; or the practitioner in a general hospital has reason to believe that the patient has been temporarily transferred from a mental hygiene facility operated or licensed by the office of mental health or the office for people with developmental disabilities, then such physician, nurse practitioner or physician assistant shall make reasonable efforts to determine whether paragraph (a), (b) or (c) of this subdivision is applicable:

(a) If the patient has a guardian appointed by a court pursuant to article seventeen-A of the surrogate's court procedure act, health care decisions for the patient shall be governed by section seventeen hundred fifty-b of the surrogate's court procedure act and not by this article.

(b) If a patient does not have a guardian appointed by a court

pursuant to article seventeen-A of the surrogate's court procedure act but falls within the class of persons described in paragraph (a) of subdivision one of section seventeen hundred fifty-b of such act, decisions to withdraw or withhold life-sustaining treatment for the patient shall be governed by section seventeen hundred fifty-b of the surrogate's court procedure act and not by this article.

(c) If a health care decision for a patient cannot be made under paragraphs (a) or (b) of this subdivision, but consent for the decision may be provided pursuant to the mental hygiene law or regulations of the office of mental health or the office for people with developmental disabilities, then the decision shall be governed by such statute or regulations and not by this article.

4. If, after reasonable efforts, it is determined that a health care decision for the patient cannot be made pursuant to subdivision two or three of this section, then the health care decision shall be made pursuant to this article.