§ 2994-cc. Consent to a nonhospital order not to resuscitate. 1. An adult with decision-making capacity, a health care agent, or a surrogate may consent to a nonhospital order not to resuscitate orally to the attending practitioner or in writing. If a patient consents to a nonhospital order not to resuscitate while in a correctional facility, notice of the patient's consent shall be given to the facility director and reasonable efforts shall be made to notify an individual designated by the patient to receive such notice prior to the issuance of the nonhospital order not to resuscitate. Notification to the facility director or the individual designated by the patient shall not delay issuance of a nonhospital order not to resuscitate.

2. Consent by a health care agent shall be governed by article twenty-nine-C of this chapter.

3. Consent by a surrogate shall be governed by article twenty-nine-CC of this chapter, except that: (a) a second determination of capacity shall be made by a health or social services practitioner; and (b) the authority of the ethics review committee set forth in article twenty-nine-CC of this chapter shall apply only to nonhospital orders issued in a hospital.

4. (a) When the concurrence of a second physician, nurse practitioner or physician assistant is sought to fulfill the requirements for the issuance of a nonhospital order not to resuscitate for patients in a correctional facility, such second physician, nurse practitioner or physician assistant shall be selected by the chief medical officer of the department of corrections and community supervision or his or her designee.

(b) When the concurrence of a second physician, nurse practitioner or physician assistant is sought to fulfill the requirements for the issuance of a nonhospital order not to resuscitate for hospice and home care patients, such second physician, nurse practitioner or physician assistant shall be selected by the hospice medical director or hospice nurse coordinator designated by the medical director or by the home care services agency director of patient care services, as appropriate to the patient.

5. Consent by a patient or a surrogate for a patient in a residential facility operated or licensed by the office of mental health, other than a hospital as defined in section 1.03 of the mental hygiene law, shall be governed by this article. Consent by a patient who is intellectually or otherwise developmentally disabled and is eligible for life-sustaining treatment decision pursuant to section seventeen hundred fifty-b of the surrogate's court procedure act shall be governed by that section.