

Source: [Office for People with Developmental Disabilities \(OPWDD\) New York 633.11 Medical treatment](#)

Informed consent may be obtained for those persons who are residents of a facility operated or certified by the Office for People with Developmental Disabilities (OPWDD) as follows:

(a) If a person is less than 18 years of age, consent shall be obtained from one of the surrogates listed, in the order stated:

- (1) a guardian lawfully empowered to give such consent;
- (2) an actively involved (see section 633.99 of this Part) spouse;
- (3) a parent;
- (4) an actively involved adult sibling (see section 633.99 of this Part);
- (5) an actively involved adult family member (see section 633.99 of this Part);
- (6) a local commissioner of social services with custody over the person pursuant to the Social Services Law or Family Court Act (if applicable); or
- (7) a surrogate decision-making committee (SDMC) (see section 633.99 of this Part) or a court of competent jurisdiction.

(b) If a person is 18 years of age or older, but lacks capacity to understand appropriate disclosures regarding proposed professional medical treatment or a determination of insufficient capacity has been made pursuant to clause (g) of this subparagraph, informed consent to such proposed professional medical treatment shall be obtained from one of the surrogates listed, in the order stated:

- (1) a guardian lawfully empowered to give such consent or the person's duly appointed health care agent or alternative agent (see section 633.20 of this Part and article 29-C of the Public Health Law);
- (2) an actively involved spouse;
- (3) an actively involved parent;
- (4) an actively involved adult child;
- (5) an actively involved adult sibling;
- (6) an actively involved adult family member;
- (7) the Consumer Advisory Board (see section 633.99 of this Part) for the Willowbrook Class (only for class members it fully represents);
- (8) a surrogate decision making committee (SDMC) or a court of competent jurisdiction.