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CQCAPD Adopted/Final regulations

Surrogate Decision-Making Committees

Summary

- The regulations amend existing Commission on Quality of Care and Advocacy for Persons with Disabilities (CQCAPD) regulations regarding the Surrogate Decision-Making Committee Program (SDMC).
- Procedures and standards to implement Chapter 262 of the Laws of 2008 which amended the "Health Care Decisions Act" (HCDA), Surrogate's Court Procedure Act (SCPA) section 1750-b are added to provide for decisions to withhold or withdraw life-sustaining treatment for persons with mental retardation and developmental disabilities in accordance with SCPA section 1750-b.
- Non-substantive administrative changes including name and address changes of the CQCAPD are included.
- The regulations clarify eligibility for the SDMC program including any person who was previously eligible for SDMC as provided for by Chapter 198 of the Laws of 2008.
- The conflict of interest definition is amended to authorize a panel member who is a member of a board of visitor to serve on a panel concerning an individual served by the psychiatric center or developmental disabilities services office to which the panel member is assigned if the panel member has no close affiliation or affinity to the patient. A panel member may serve on a panel regarding a person served by another provider within a health care network or parent organization as long as the panel member has no close affiliation or affinity.
- The major medical treatment definition is amended to clarify that any professional diagnosis or treatment which requires informed consent is within the definition absent specific exclusions that are set forth. Hospice pursuant to Article 40 of the Public Health Law and HIV testing are specifically included within the definition of major medical treatment.

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- The major medical treatment definition is amended to include the discontinuance of medical treatment which is sustaining life functions in accordance with SCPA section 1750-b for persons with mental retardation or developmental disabilities.
- The regulations provide for submission of information regarding a patient's lack of capacity for SCPA section 1750-b declarations by the attending physician.
- The regulations provide for submission of information regarding the risks and benefits of withholding or withdrawing life-sustaining treatment by two physicians including the attending physician for persons with mental retardation or developmental disabilities.
- The regulations authorize a podiatrist to submit a statement on behalf of a major medical treatment.
- They authorize notice of an SDMC hearing to interested parties by special mail service, or by first class mail when a record of deposit is maintained.
- The regulations conform its provisions with Chapter 312 of the Laws of 2007 to include persons receiving service coordination under the auspices of the Office of Mental Retardation and Developmental Disabilities (OMRDD) within the SDMC jurisdiction and to recognize surrogates authorized by the Office of Mental Health, Office of Alcohol and Substance Abuse Services or OMRDD regulations.
- The regulations incorporate administrative provisions regarding amendments and resubmissions of declarations.