

1 "Member of the supportive community" means a person whom
2 the qualified adult has identified, whom the qualified adult
3 trusts to engage in the supported decision-making process, and
4 who understands the qualified adult's desires and personal
5 values.

6 "Mentally ill adult" means an adult who has a psychiatric
7 disorder or other disease that substantially impairs the adult's
8 mental health and necessitates treatment or supervision.

9 "Personal information" means information that can be used
10 to distinguish or trace an individual's identity, either alone
11 or when combined with other information, that is linked or
12 linkable to a specific individual.

13 "Qualified adult" means an adult with a disability, a
14 mentally ill adult, or an aging adult.

15 "Supported decision-making" means a process where a
16 qualified adult has made or is making decisions by using
17 friends, family members, professionals, or other people the
18 qualified adult trusts to:

- 19 (1) Help understand the issues and choices;
20 (2) Answer questions;



- 1 (3) Provide explanations in a language the qualified adult
- 2 understands;
- 3 (4) Communicate the qualified adult's decision to others,
- 4 if necessary and if specifically requested by the
- 5 qualified adult; or
- 6 (5) Facilitate the exercise of decisions regarding the
- 7 qualified adult's day-to-day health, safety, welfare,
- 8 or financial affairs.

9 "Supported decision-making agreement" or "agreement" means
 10 a voluntary agreement entered into pursuant to this chapter
 11 between a qualified adult and one or more members of the
 12 supportive community.

13 "Vulnerable adult" has the same meaning as defined in
 14 section 346-222.

15 § -2 **Supported decision-making agreement; term.** (a) A
 16 qualified adult may voluntarily, without coercion or undue
 17 influence, enter into a supported decision-making agreement with
 18 one or more members of the supportive community; provided that
 19 the supported decision-making agreement shall not adversely
 20 affect the decision-making authority granted to a court-
 21 appointed guardian or court-appointed conservator.



1 (b) Under the supported decision-making agreement, the
2 qualified adult may request the member of the supportive
3 community to do any or all of the following:

4 (1) Provide supported decision-making, including
5 assistance in understanding the options,
6 responsibilities, and consequences of the qualified
7 adult's life decisions, without making those decisions
8 on behalf of the qualified adult;

9 (2) Assist in accessing, collecting, obtaining, and
10 understanding information that is relevant to a given
11 life decision from any person, including but not
12 limited to:

13 (A) Medical, psychological, financial, educational,
14 occupational, and social decisions;

15 (B) Treatment records;

16 (C) How and in what relationships the qualified adult
17 chooses to engage; and

18 (D) Information about how a supportive community is
19 chosen; or



1 (3) Assist the qualified adult in communicating the
2 qualified adult's decisions to appropriate persons
3 when expressly requested by the qualified adult.

4 (c) A member of the supportive community shall not be
5 entitled to compensation or other consideration, in cash or in
6 kind, for assistance provided to the qualified adult for the
7 purposes of a supportive decision-making agreement.

8 (d) A qualified adult shall not enter into a supported
9 decision-making agreement with a member of the supportive
10 community who:

11 (1) Provides paid support services to the qualified adult;

12 (2) Has been confirmed as the perpetrator of abuse of the
13 qualified adult, any other qualified adult, or any
14 vulnerable adult; or

15 (3) Has been convicted of:

16 (A) A crime against a vulnerable adult or in which
17 the member otherwise intentionally caused
18 physical harm to another;

19 (B) A financial crime; or

20 (C) The offense of theft in the first, second, third,
21 or fourth degree.



1 § -3 **Access to personal information.** (a) The member of
2 the supportive community selected by a qualified adult pursuant
3 to section -2 shall only assist the qualified adult in
4 accessing, collecting, or obtaining information that is relevant
5 to a decision made pursuant to the supported decision-making
6 agreement and only when the assistance is specifically requested
7 by the qualified adult; provided that protected medical
8 information under the Health Insurance Portability and
9 Accountability Act of 1996, P.L. 104-191, or education records
10 under title 20 United States Code section 1232g of the Family
11 Educational Rights and Privacy Act of 1974 shall require express
12 written consent from the qualified adult.

13 (b) If a member of the supportive community assists the
14 qualified adult in accessing, collecting, or obtaining
15 financial, medical, or personal information, the member of the
16 supportive community shall keep the information confidential, as
17 requested by the qualified adult.

18 (c) A member of the supportive community who obtains
19 information pursuant to this section shall only use the
20 information for the specific purposes requested by the qualified
21 adult. Any misuse of information obtained pursuant to this



1 section may subject the member of the supportive community to
2 criminal and civil liability.

3 **§ -4 Supported decision-making agreement; requirements;**

4 **termination.** (a) A supported decision-making agreement shall
5 be in writing and shall include at a minimum:

6 (1) The name of the qualified adult;

7 (2) The name, address, phone number, and electronic mail
8 address of the member of the supportive community, if
9 applicable;

10 (3) Identification of the subject matter for which the
11 qualified adult requests advice from the member of the
12 supportive community;

13 (4) A description of the agreement terms, including, at a
14 minimum, the terms under which the member of the
15 supportive community agrees to:

16 (A) Provide information as requested by the qualified
17 adult;

18 (B) Respect that the final and ultimate decision is
19 the qualified adult's and not the member of the
20 supportive community's;



- 1 (C) Not coerce or manipulate the qualified adult into
- 2 making any decision; and
- 3 (D) Provide the most up-to-date and relevant
- 4 information to the qualified adult based on all
- 5 the available and known information the member of
- 6 the supportive community has;
- 7 (5) A description of how the members of the supportive
- 8 community may work together, if there is more than one
- 9 member of the supportive community;
- 10 (6) A description of how any perceived or actual conflict
- 11 between the members of the supportive community and
- 12 the qualified adult shall be mitigated;
- 13 (7) A notice that any person, as described in section
- 14 346-224(a), who is relying on the supported decision-
- 15 making agreement and who knows or has reason to
- 16 believe that the qualified adult is a vulnerable adult
- 17 and has incurred abuse or is in danger of abuse if
- 18 immediate action is not taken, shall report the
- 19 alleged abuse to the department of human services in
- 20 accordance with section 346-224; and



- 1 (2) After investigating a member of the supportive
2 community for abuse of the qualified adult, the
3 department of human services confirms that the
4 qualified adult is a vulnerable adult who has been
5 abused by the member of the supportive community; or
- 6 (3) The member of the supportive community is:
- 7 (A) Confirmed as the perpetrator of abuse of the
8 qualified adult, any other qualified adult, or
9 any vulnerable adult;
- 10 (B) Convicted of a crime against a vulnerable adult
11 or in which the member otherwise intentionally
12 caused physical harm to another;
- 13 (C) Convicted of a financial crime; or
- 14 (D) Convicted of the offense of theft in the first,
15 second, third, or fourth degree.
- 16 (e) A supported decision-making agreement, or the
17 execution of a supported decision-making agreement, shall not be
18 used as evidence of incapacity or incompetency of the qualified
19 adult and shall not preclude an adult with a functional
20 impairment who has entered into such an agreement from acting
21 independently of the agreement.



1 (f) The existence of a supported decision-making agreement
2 shall not preclude a qualified adult from seeking personal
3 information on their own without the assistance of the member of
4 the supportive community.

5 § -5 **Reliance on agreement; limitation of liability.**

6 (a) A person who receives the original or a copy of the
7 supported decision-making agreement shall rely on the agreement
8 and its authority to assist as presented.

9 (b) A person shall not be subject to criminal or civil
10 liability and shall not be deemed to have engaged in
11 professional misconduct for an act or omission if the act or
12 omission is done in good faith and in reliance on a supported
13 decision-making agreement and its authority to assist as
14 presented."

15 SECTION 2. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



1 SECTION 3. This Act shall take effect on July 1, 3000.



Report Title:

Supported Decision-Making Agreement; Qualified Adults;
Supportive Community; Terms; Restrictions

Description:

Allows qualified adults, including adults with a disability, mentally ill adults, and adults sixty-five years of age or older, to enter into supported decision-making agreements with one or more members of a supportive community. Specifies the terms of a supported decision-making agreement, including access to personal information, agreement requirements, and circumstances for termination. Effective 7/1/3000. (HD2)

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