

Effective 5/7/2025

75-5-704 Supported decision-making agreement.

- (1) Subject to Subsections (2) and (6), an individual may enter into a supported decision-making agreement at any time if:
 - (a) the individual enters into the agreement voluntarily, without coercion or undue influence, and without being solicited to enter into the agreement; and
 - (b) the individual understands the nature and effect of the agreement.
- (2)
 - (a) If the individual seeking to enter into a supported decision-making agreement has a court-appointed guardian, court-appointed conservator, or qualifying person, the guardian, conservator, or qualifying person shall be given:
 - (i) notice and an opportunity to participate in all discussions related to a proposed supported decision-making agreement; and
 - (ii) 14 days to review a proposed supported decision-making agreement to determine whether the proposed agreement includes an area over which the guardian, conservator, or qualifying person has been granted legal decision-making authority.
 - (b) If a guardian, conservator, or qualifying person determines, pursuant to Subsection (2)(a), that a proposed supported decision-making agreement includes an area over which the guardian, conservator, or qualifying person has been granted decision-making authority:
 - (i) the supported decision-making agreement is not valid without the signature of the guardian, conservator, or qualifying person; and
 - (ii) the proposed supported decision-making agreement shall describe how the guardian, conservator, or qualifying person will be provided timely notice of and an opportunity to participate in any discussion between parties to the supported decision-making agreement that relate to an area over which the guardian, conservator, or qualifying person has been granted legal decision-making authority.
 - (c) If a guardian, conservator, or qualifying person described in Subsection (2)(a) determines that a proposed supported decision-making agreement includes an area over which the guardian, conservator, or other person has not been granted legal decision-making authority, nothing in this part shall be construed to:
 - (i) require that the guardian, conservator, or qualifying person be excluded from any discussion relating to that area; or
 - (ii) preclude the parties to the proposed supported decision-making agreement from giving the guardian, conservator, or qualifying person notice and an opportunity to participate in any discussion relating to that area.
- (3) A supported decision-making agreement shall:
 - (a) be in writing;
 - (b) state the date on which the agreement is effective;
 - (c) designate at least one supporter;
 - (d) describe:
 - (i) how the principal uses supported decision-making to make decisions;
 - (ii) the rights of the principal;
 - (iii) the responsibilities of each supporter;
 - (iv) the decision-making supports and accommodations the principal chooses to receive from each supporter;
 - (v) the types of decisions, if any, with which a supporter is not authorized to assist the principal;
 - (e) include the ink or electronic signature of:
 - (i) the individual seeking to enter into the supported decision-making agreement;

- (ii) each supporter;
 - (iii) a guardian, conservator, or qualifying person, if required under Subsection (2); and
 - (iv)
 - (A) two witnesses; or
 - (B) a notary public; and
 - (f) describe how any perceived or actual conflict of interest between a supporter and the principal will be mitigated.
- (4)
- (a) A supported decision-making agreement executed other than in this state is valid in this state if, when the supported decision-making agreement was executed, the execution complied with the law of the jurisdiction that determines the meaning and effect of the supported decision-making agreement.
 - (b) The meaning and effect of a supported decision-making agreement is determined by the law of the jurisdiction indicated in the supported decision-making agreement and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the supported decision-making agreement was executed.
- (5)
- (a) A supported decision-making agreement may include a release or other document by which the principal authorizes a supporter to access the principal's confidential information, subject to the terms of the supported decision-making agreement described in Subsection (3) and the supporter's duties described in Section 75-5-705.
 - (b) Before a covered entity may share a principal's protected health information with a supporter, the principal shall sign a HIPAA consent form authorizing release of the protected health information to the supporter.
 - (c) Nothing in this part shall be construed to alter or preempt the requirements for protecting health information under HIPAA.
- (6) Each supporter shall include with the supporter's signature:
- (a) a description of the supporter's relationship to the principal;
 - (b) a statement of the supporter's willingness to act as a supporter;
 - (c) an acknowledgment of the supporter's duties; and
 - (d) an attestation that the supporter:
 - (i) agrees to honor the right of the principal to make decisions;
 - (ii) will not make decisions for the principal, including health care decisions; and
 - (iii) will respect and work to further the independence of the principal.
- (7) A supported decision-making agreement may do one or more of the following:
- (a) specify a time period for which the supported decision-making agreement is valid;
 - (b) designate more than one supporter;
 - (c) designate an alternate individual to act in the place of a supporter under circumstances specified in the supported decision-making agreement; or
 - (d) authorize a supporter to share information with another supporter or other individual named in the supported decision-making agreement.

Enacted by Chapter 533, 2025 General Session