



STATE SENATE
DISTRICT 25

Colleagues, SB 1039A provides access to health care advocates for individuals who have an intellectual or developmental disability and who are unable to make health care decisions for themselves. A health care advocate is for people who do not have guardians and do not have the capacity to choose a health care representative for themselves.

Currently, individuals who receive support from the Office of Developmental Disability Services can designate a health care representative to make health care decisions on their behalf using an advance directive. SB 1039A, extends this option to individuals who may not be able to appoint their own health care advocate. The measure authorizes the appointment of a health care advocate for those individuals and receive services through an individualized written service plan, or an ISP.

ISP teams, which consist of an individual with an intellectual or developmental disability, their legal guardian or designated representative, their case manager, and any other chosen by the individual, would be authorized to appoint a health care advocate to make health care decisions for individuals who do not already have a guardian or representative. The health care advocate must be a capable adult who is willing to serve and who is approved as an advocate by at least two-thirds of the ISP team, including the individual for the advocate is to be appointed. They cannot be the attending physician or staff, anyone providing care to the individual, or a parent or guardian whose rights have been terminated. The measure also limits the decisions a health care advocate make; the advocate may not make health care decisions on behalf of the individual regarding:

- Convulsive treatment, psychosurgery, sterilization, abortion, euthanasia, or assisted suicide
- Withholding/ withdrawing life sustaining procedures
- Withholding/ withdrawing artificially administered nutrition and hydration other than hyperalimentation
- Testing for HIV unless for treatment purposes
- Experimental procedures unless approved by an IRB and determined by treating physician to be in the individual's best interest
- Experimental drugs that are not FDA approved unless determined by treating physician to be in the individual's best interest
- Use of seclusion or physical or chemical restraints unless there is an imminent risk of harm, but only for so long as the risk continues except in an emergency