S T A T E O F N E W Y O R K

2191

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. MARKEY -- Multi-Sponsored by -- M. of A. BRENNAN, DINOWITZ, MAYERSOHN, TOWNS -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to mandatory performance of autopsies for those afflicted with certain neurological symptoms

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 4210-c of the public health law, as amended by chapter 898 of the laws of 1984, is amended to read as follows:

2. For the purposes of this section: (a) "compelling public necessity" shall mean:

(i) that the dissection or autopsy is essential to the conduct of a criminal investigation of a homicide, as defined in section 125.00 of the penal law, of which the decedent is the victim, or

(ii) that discovery of the cause of death is necessary to meet an immediate and substantial threat to the public health and that a dissection or autopsy is essential to ascertain the cause of death, or

(iii) that the need for a dissection or autopsy is established in accordance with subdivision five of this section[.], OR

(IV) THAT THE DECEASED, WHO WAS BETWEEN THE AGES OF FORTY AND SIXTY-FIVE, EXHIBITED PRIOR TO ONE YEAR OF THEIR DEATH ALL OF THE FOLLOWING SYMPTOMS: RAPIDLY PROGRESSING DEMENTIA, LOSS OF MOTOR CONTROL, INVOLUNTARY MUSCLE MOVEMENTS, ASSOCIATED NEUROMUSCULAR DISTURBANCES, INSOMNIA, DEPRESSION, CONFUSION, PERSONALITY AND BEHAVIORAL CHANGES, LOSS OF MEMORY, LOSS OF COORDINATION AND SIGHT, LOSS OF ALL MENTAL CAPACITY AND LOSS OF ALL PHYSICAL CAPABILITIES.

(b) "relative" shall mean the person most closely related to the decedent by consanguinity or affinity. In the event such person is unavailable, the objection may be raised on his behalf by the next most closely

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD03037-01-9

related person. The official who has authority to order a dissection or autopsy of the decedent's body may require a relative to present an affidavit stating his relationship to the decedent, the religious affiliation of the decedent, if any, that the decedent had religious objections to an autopsy, the basis for such belief, and that he will assume responsibility for the lawful disposition of the body of the deceased.

(c) "friend" shall mean any person who, prior to the decedent's death, maintained such regular contact with the decedent as to be familiar with his activities, health and religious beliefs and who presents an affidavit stating the facts and circumstances upon which the claim that he is such friend is based, the religious affiliation of the decedent, if any, that the decedent had religious objections to an autopsy, the basis for such belief, and that he will assume responsibility for the lawful disposition of the body of the deceased.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date by the department of health of the state of New York.