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

811

2009-2010 Regular Sessions

I N S E N A T E

January 16, 2009

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to requirements for health care proxies and death certificates

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

Section 1. The subdivision heading and paragraph (a) of subdivision 2 of section 2981 of the public health law, as added by chapter 752 of the laws of 1990, is amended to read as follows:

Health care proxy; execution[; witnesses]. (a) A competent adult may appoint a health care agent by a health care proxy, signed and dated by the adult [in the presence of two adult witnesses who shall also sign the proxy] AND SWORN TO BEFORE A NOTARY PUBLIC. Another person may sign and date the health care proxy for the adult if the adult is unable to do so, at the adult's direction and in the adult's presence, and in the presence of [two adult witnesses who shall sign the proxy. The witnesses shall state that the principal appeared to execute the proxy willingly and free from duress. The person appointed as agent shall not act as witness to execution of the health care proxy] A NOTARY PUBLIC AND SWORN TO BEFORE THE NOTARY PUBLIC.

S 2. Subdivision 2 of section 2982 of the public health law, as amended by chapter 230 of the laws of 2004, is amended to read as follows:

2. Decision-making standard. After consultation with a licensed physician, registered nurse, licensed psychologist, licensed master social worker, or a licensed clinical social worker, the agent shall make health care decisions: (a) in accordance with the principal's wishes, including the principal's religious and moral beliefs; or (b) if the principal's wishes are not reasonably known and cannot with reasonable diligence be ascertained, in accordance with the principal's best interests; provided, however, that if the principal's wishes regarding the

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

LBD06271-01-9

administration of artificial nutrition and hydration are not reasonably known and cannot with reasonable diligence be ascertained, the agent shall not have the authority to make decisions regarding these measures; PROVIDED, HOWEVER, THE AGENT MAY NOT MAKE HEALTH CARE DECISIONS WHICH WILL EVENTUALLY END THE LIFE OF A PERSON WITHOUT RECEIVING WRITTEN OPINION FROM TWO MEDICAL DOCTORS, WHO ARE NOT THE PERSON'S ATTENDING PHYSICIAN, STATING THAT THEY AGREE WITH THE HEALTH CARE DECISION.

S 3. Subdivision 4 of section 4141 of the public health law is amended by adding a new paragraph (e) to read as follows:

(E) WHERE A DEATH IS THE RESULT OF THE HEALTH CARE DECISION OF A HEALTH CARE AGENT WHICH CAUSED THE WITHDRAWAL OF NUTRITION OR HYDRATION, IT SHALL BE STATED ON THE DEATH CERTIFICATE.

S 4. This act shall take effect immediately.