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

3169

2011-2012 Regular Sessions

I N S E N A T E

February 10, 2011

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

AN ACT to amend the surrogate's court procedure act, in relation to authorizing the consumer advisory board to make health care decisions for certain residents of the former Willowbrook state school

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

Section 1. The opening paragraph of paragraph (a) of subdivision 1 of section 1750-b of the surrogate's court procedure act, as amended by chapter 8 of the laws of 2010, is amended to read as follows:

For the purposes of making a decision to withhold or withdraw life-sustaining treatment pursuant to this section, in the case of a person for whom no guardian has been appointed pursuant to section seventeen hundred fifty or seventeen hundred fifty-a of this article, a "guardian" shall also mean a family member of a person who (i) has mental retardation, or (ii) has a developmental disability, as defined in section 1.03 of the mental hygiene law, which (A) includes mental retardation, or (B) results in a similar impairment of general intellectual functioning or adaptive behavior so that such person is incapable of managing himself or herself, and/or his or her affairs by reason of such developmental disability. Qualified family members shall be included in a prioritized list of said family members pursuant to regulations established by the commissioner of mental retardation and developmental disabilities. Such family members must have a significant and ongoing involvement in a person's life so as to have sufficient knowledge of their needs and, when reasonably known or ascertainable, the person's wishes, including moral and religious beliefs. In the case of a person who was a resident of the former Willowbrook state school on March seventeenth, nineteen hundred seventy-two and those ONE HUNDRED FOUR individuals who were in community care status on that date and subsequently returned to Willowbrook or a related facility, who are fully represented by the consumer

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

LBD08756-01-1

advisory board and who have no guardians appointed pursuant to this article or have no qualified family members to make such a decision, then a "guardian" shall also mean the Willowbrook consumer advisory board. A decision of such family member or the Willowbrook consumer advisory board to withhold or withdraw life-sustaining treatment shall be subject to all of the protections, procedures and safeguards which apply to the decision of a guardian to withhold or withdraw life-sustaining treatment pursuant to this section.

S 2. This act shall take effect immediately.