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

2186

2011-2012 Regular Sessions

I N A S S E M B L Y

January 14, 2011

Introduced by M. of A. ROSENTHAL, KELLNER, GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to witnesses to a health care proxy and to amend the penal law, in relation to the crime of forgery in the second degree

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

Section 1. 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:

(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] ONE adult [witnesses] WITNESS who shall also sign the proxy. HOWEVER, A PERSON WHO RESIDES IN A FACILITY OPERATED OR LICENSED BY THE OFFICE OF MENTAL HEALTH OR THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, SHALL SIGN SUCH PROXY IN THE PRESENCE OF TWO ADULT WITNESSES WHO SHALL ALSO SIGN THE PROXY. Another person, WHO SHALL NOT BE A WITNESS, 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] THE WITNESS OR witnesses who shall sign the proxy. The WITNESS OR 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.

S 2. Subdivision 1 of section 170.10 of the penal law, as amended by chapter 949 of the laws of 1984, is amended to read as follows:

1. A deed, will, codicil, contract, assignment, commercial instrument, credit card, as that term is defined in subdivision seven of section 155.00, HEALTH CARE PROXY UNDER ARTICLE TWENTY-NINE-C OF THE PUBLIC HEALTH LAW, or other instrument which does or may evidence, create,

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

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transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

S 3. This act shall take effect on the ninetieth day after it shall have become a law.