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

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I N A S S E M B L Y

May 7, 2014

Introduced by M. of A. ROSENTHAL, GOTTFRIED -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the artificial nutrition and hydration decision standard

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

Section 1. Subdivision 4 of section 2980 of the public health law, as added by chapter 752 of the laws of 1990, is amended to read as follows:

4. "Health care" means any treatment, service or procedure to diagnose or treat an individual's physical or mental condition. PROVIDING NUTRITION OR HYDRATION ORALLY, WITHOUT RELIANCE ON MEDICAL TREATMENT, IS NOT HEALTH CARE UNDER THIS ARTICLE AND IS NOT SUBJECT TO THIS ARTICLE.

S 2. The fourth undesignated paragraph of paragraph (d) of subdivision 5 of section 2981 of the public health law, as added by chapter 752 of the laws of 1990, is amend to read as follows:

NOTE: Although not necessary, and neither encouraged nor discouraged, you may wish to state instructions or wishes, and limit your agent's authority. [Unless your agent knows your wishes about artificial nutrition and hydration, your agent will not have authority to decide about artificial nutrition and hydration.] FOR EXAMPLE, YOU MAY STATE YOUR WISHES REGARDING WITHHOLDING OR WITHDRAWING LIFE-SUSTAINING TREATMENT (INCLUDING HYDRATION AND NUTRITION PROVIDED BY MEANS OF MEDICAL TREATMENT) TO GUIDE YOUR AGENT'S DECISIONS. If you choose to state instructions, wishes, or limits, please do so below:

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S 3. 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:

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

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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 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].

S 4. This act shall take effect on the ninetieth day after it shall have become a law, provided that the amendments to sections 2981 and 2982 of the public health law made by sections two and three of this act shall apply to decisions made pursuant to health care proxies created prior to the effective date of this act as well as those created thereafter.