

9709

I N A S S E M B L Y

May 16, 2014

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

AN ACT to amend the public health law, in relation to providing for a
decision regarding hospice care on behalf of a hospice-eligible inca-
pable adult patient without a surrogate; and to repeal paragraph (c)
of subdivision 5 of section 2994-g of such law relating thereto

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

- 1 Section 1. Section 2994-g of the public health law is amended by
2 adding a new subdivision 5-a to read as follows:
3 5-A. DECISIONS REGARDING HOSPICE CARE. AN ATTENDING PHYSICIAN SHALL BE
4 AUTHORIZED TO MAKE DECISIONS REGARDING HOSPICE CARE AND EXECUTE APPRO-
5 PRIATE DOCUMENTS FOR SUCH DECISIONS (INCLUDING A HOSPICE ELECTION FORM)
6 FOR AN ADULT PATIENT UNDER THIS SECTION WHO IS HOSPICE ELIGIBLE IN
7 ACCORDANCE WITH THE FOLLOWING REQUIREMENTS.
8 (A) THE ATTENDING PHYSICIAN SHALL MAKE DECISIONS UNDER THIS SECTION IN
9 CONSULTATION WITH STAFF DIRECTLY RESPONSIBLE FOR THE PATIENT'S CARE, AND
10 SHALL BASE HIS OR HER DECISIONS ON THE STANDARDS FOR SURROGATE DECISIONS
11 SET FORTH IN SUBDIVISIONS FOUR AND FIVE OF SECTION TWENTY-NINE HUNDRED
12 NINETY-FOUR-D OF THIS ARTICLE;
13 (B) THERE IS A CONCURRING OPINION AS FOLLOWS:
14 (I) IN A GENERAL HOSPITAL, AT LEAST ONE OTHER PHYSICIAN DESIGNATED BY
15 THE HOSPITAL MUST INDEPENDENTLY DETERMINE THAT HE OR SHE CONCURS THAT
16 THE RECOMMENDATION IS CONSISTENT WITH SUCH STANDARDS FOR SURROGATE DECI-
17 SIONS;
18 (II) IN A RESIDENTIAL HEALTH CARE FACILITY, THE MEDICAL DIRECTOR OF
19 THE FACILITY, OR A PHYSICIAN DESIGNATED BY THE MEDICAL DIRECTOR, MUST
20 INDEPENDENTLY DETERMINE THAT HE OR SHE CONCURS THAT THE RECOMMENDATION
21 IS CONSISTENT WITH SUCH STANDARDS FOR SURROGATE DECISIONS; PROVIDED THAT
22 IF THE MEDICAL DIRECTOR IS THE PATIENT'S ATTENDING PHYSICIAN, A DIFFER-
23 ENT PHYSICIAN DESIGNATED BY THE RESIDENTIAL HEALTH CARE FACILITY MUST
24 MAKE THIS INDEPENDENT DETERMINATION; OR
25 (III) IN SETTINGS OTHER THAN A GENERAL HOSPITAL OR RESIDENTIAL HEALTH
26 CARE FACILITY, THE MEDICAL DIRECTOR OF THE HOSPICE, OR A PHYSICIAN

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

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1 DESIGNATED BY THE MEDICAL DIRECTOR, MUST INDEPENDENTLY DETERMINE THAT HE
2 OR SHE CONCURS THAT THE RECOMMENDATION IS MEDICALLY APPROPRIATE AND
3 CONSISTENT WITH SUCH STANDARDS FOR SURROGATE DECISIONS; PROVIDED THAT IF
4 THE MEDICAL DIRECTOR IS THE PATIENT'S ATTENDING PHYSICIAN, A DIFFERENT
5 PHYSICIAN DESIGNATED BY THE HOSPICE MUST MAKE THIS INDEPENDENT DETERMI-
6 NATION; AND

7 (C) THE ETHICS REVIEW COMMITTEE OF THE GENERAL HOSPITAL, RESIDENTIAL
8 HEALTH CARE FACILITY OR HOSPICE, AS APPLICABLE, INCLUDING AT LEAST ONE
9 PHYSICIAN WHO IS NOT THE PATIENT'S ATTENDING PHYSICIAN, OR A COURT OF
10 COMPETENT JURISDICTION, MUST REVIEW THE DECISION AND DETERMINE THAT IT
11 IS CONSISTENT WITH SUCH STANDARDS FOR SURROGATE DECISIONS.

12 S 2. Paragraph (c) of subdivision 5 of section 2994-g of the public
13 health law is REPEALED.

14 S 3. This act shall take effect immediately.