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

7150--A

I N S E N A T E

May 1, 2014

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to providing for a decision regarding hospice care on behalf of a hospice-eligible incapable 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 2994-g of the public health law is amended by adding a new subdivision 5-a to read as follows:

5-A. DECISIONS REGARDING HOSPICE CARE. AN ATTENDING PHYSICIAN SHALL BE AUTHORIZED TO MAKE DECISIONS REGARDING HOSPICE CARE AND EXECUTE APPROPRIATE DOCUMENTS FOR SUCH DECISIONS (INCLUDING A HOSPICE ELECTION FORM) FOR AN ADULT PATIENT UNDER THIS SECTION WHO IS HOSPICE ELIGIBLE IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS.

(A) THE ATTENDING PHYSICIAN SHALL MAKE DECISIONS UNDER THIS SECTION IN CONSULTATION WITH STAFF DIRECTLY RESPONSIBLE FOR THE PATIENT'S CARE, AND SHALL BASE HIS OR HER DECISIONS ON THE STANDARDS FOR SURROGATE DECISIONS SET FORTH IN SUBDIVISIONS FOUR AND FIVE OF SECTION TWENTY-NINE HUNDRED NINETY-FOUR-D OF THIS ARTICLE;

(B) THERE IS A CONCURRING OPINION AS FOLLOWS:

(I) IN A GENERAL HOSPITAL, AT LEAST ONE OTHER PHYSICIAN DESIGNATED BY THE HOSPITAL MUST INDEPENDENTLY DETERMINE THAT HE OR SHE CONCURS THAT THE RECOMMENDATION IS CONSISTENT WITH SUCH STANDARDS FOR SURROGATE DECISIONS;

(II) IN A RESIDENTIAL HEALTH CARE FACILITY, THE MEDICAL DIRECTOR OF THE FACILITY, OR A PHYSICIAN DESIGNATED BY THE MEDICAL DIRECTOR, MUST INDEPENDENTLY DETERMINE THAT HE OR SHE CONCURS THAT THE RECOMMENDATION IS CONSISTENT WITH SUCH STANDARDS FOR SURROGATE DECISIONS; PROVIDED THAT IF THE MEDICAL DIRECTOR IS THE PATIENT'S ATTENDING PHYSICIAN, A DIFFERENT PHYSICIAN DESIGNATED BY THE RESIDENTIAL HEALTH CARE FACILITY MUST MAKE THIS INDEPENDENT DETERMINATION; OR

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

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(III) IN SETTINGS OTHER THAN A GENERAL HOSPITAL OR RESIDENTIAL HEALTH CARE FACILITY, THE MEDICAL DIRECTOR OF THE HOSPICE, OR A PHYSICIAN DESIGNATED BY THE MEDICAL DIRECTOR, MUST INDEPENDENTLY DETERMINE THAT HE OR SHE CONCURS THAT THE RECOMMENDATION IS MEDICALLY APPROPRIATE AND CONSISTENT WITH SUCH STANDARDS FOR SURROGATE DECISIONS; PROVIDED THAT IF THE MEDICAL DIRECTOR IS THE PATIENT'S ATTENDING PHYSICIAN, A DIFFERENT PHYSICIAN DESIGNATED BY THE HOSPICE MUST MAKE THIS INDEPENDENT DETERMINATION; AND

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

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

S 3. This act shall take effect immediately.