

1153

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed 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 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:

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-

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

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1 ENT PHYSICIAN DESIGNATED BY THE RESIDENTIAL HEALTH CARE FACILITY MUST  
2 MAKE THIS INDEPENDENT DETERMINATION; OR

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

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

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17 health law is REPEALED.

18 S 3. This act shall take effect immediately.