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2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

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

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

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

7 S 2. The fourth undesignated paragraph of paragraph (d) of subdivision
8 5 of section 2981 of the public health law, as added by chapter 752 of
9 the laws of 1990, is amend to read as follows:

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

19 _____
20 _____
21 _____
22 S 3. Subdivision 2 of section 2982 of the public health law, as
23 amended by chapter 230 of the laws of 2004, is amended to read as
24 follows:

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

LBD04304-01-5

1 2. Decision-making standard. After consultation with a licensed physi-
2 cian, registered nurse, licensed psychologist, licensed master social
3 worker, or a licensed clinical social worker, the agent shall make
4 health care decisions: (a) in accordance with the principal's wishes,
5 including the principal's religious and moral beliefs; or (b) if the
6 principal's wishes are not reasonably known and cannot with reasonable
7 diligence be ascertained, in accordance with the principal's best inter-
8 ests[; provided, however, that if the principal's wishes regarding the
9 administration of artificial nutrition and hydration are not reasonably
10 known and cannot with reasonable diligence be ascertained, the agent
11 shall not have the authority to make decisions regarding these meas-
12 ures].

13 S 4. This act shall take effect on the ninetieth day after it shall
14 have become a law, provided that the amendments to sections 2981 and
15 2982 of the public health law made by sections two and three of this act
16 shall apply to decisions made pursuant to health care proxies created
17 prior to the effective date of this act as well as those created there-
18 after.