

STATE OF NEW YORK

8395

2025-2026 Regular Sessions

IN SENATE

June 7, 2025

Introduced by Sen. BROUK -- (at request of the Office of Mental Health)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Rules

AN ACT to amend the public health law, in relation to orders not to
resuscitate and decisions regarding life-sustaining treatment and
hospice care

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Section 2994-a of the public health law is amended by
2 adding a new subdivision 18-a to read as follows:
3 18-a. "Mental hygiene hospital" means any hospital as defined in
4 subdivision ten of section 1.03 of the mental hygiene law.
5 § 2. Subdivision 1-a of section 2994-b of the public health law, as
6 added by chapter 742 of the laws of 2023, is amended to read as follows:
7 1-a. This article shall also apply to decisions regarding orders not
8 to resuscitate, life-sustaining treatment, and hospice care for a
9 patient who lacks decision-making capacity in a mental hygiene hospital
10 [~~as defined by section 1.03 of the mental hygiene law~~].
11 § 3. Subparagraphs (ii) and (iii) of paragraph (b) of subdivision 3 of
12 section 2994-c of the public health law, as amended by chapter 708 of
13 the laws of 2019, are amended to read as follows:
14 (ii) In a general hospital or mental hygiene hospital, a health or
15 social services practitioner employed by or otherwise formally affil-
16 iated with the facility must independently determine whether an adult
17 patient lacks decision-making capacity if the surrogate's decision
18 concerns the withdrawal or withholding of life-sustaining treatment.
19 (iii) With respect to decisions regarding hospice care for a patient
20 in a general hospital, mental hygiene hospital, or residential health
21 care facility, the health or social services practitioner must be
22 employed by or otherwise formally affiliated with the general hospital,
23 mental hygiene hospital, or residential health care facility.

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

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1 § 4. Paragraph (c) of subdivision 5 of section 2994-d of the public
2 health law, as amended by chapter 708 of the laws of 2019, is amended to
3 read as follows:

4 (c) In a general hospital or mental hygiene hospital, if the attending
5 practitioner objects to a surrogate's decision, under subparagraph (ii)
6 of paragraph (a) of this subdivision, to withdraw or withhold nutrition
7 and hydration provided by means of medical treatment, the decision shall
8 not be implemented until the ethics review committee, including at least
9 one physician, nurse practitioner or physician assistant who is not
10 directly responsible for the patient's care, or a court of competent
11 jurisdiction, reviews the decision and determines that it meets the
12 standards set forth in this subdivision and subdivision four of this
13 section.

14 § 5. Subparagraphs (i) and (iii) of paragraph (b) of subdivision 5-a
15 of section 2994-g of the public health law, as amended by chapter 708 of
16 the laws of 2019, are amended to read as follows:

17 (i) in a general hospital or mental hygiene hospital, at least one
18 other physician, nurse practitioner or physician assistant designated by
19 the hospital must independently determine that [~~he or she~~] such physi-
20 cian, nurse practitioner or physician assistant concurs that the recom-
21 mendation is consistent with such standards for surrogate decisions;

22 (iii) in settings other than a general hospital, mental hygiene hospi-
23 tal or residential health care facility, the medical director of the
24 hospice, or a physician designated by the medical director, must inde-
25 pendently determine that [~~he or she~~] such medical director or physician
26 concurs that the recommendation is medically appropriate and consistent
27 with such standards for surrogate decisions; provided that if the
28 medical director is the patient's attending physician, a different
29 physician designated by the hospice must make this independent determi-
30 nation; and

31 § 6. Paragraph (c) of subdivision 5-a of section 2994-g of the public
32 health law, as separately amended by chapters 622 and 708 of the laws of
33 2019, is amended to read as follows:

34 (c) The ethics review committee of the general hospital, mental
35 hygiene hospital, residential health care facility or hospice, as appli-
36 cable, including at least one physician, nurse practitioner or physician
37 assistant who is not the patient's attending practitioner, or a court of
38 competent jurisdiction, must review the decision and determine that it
39 is consistent with such standards for surrogate decisions. This require-
40 ment shall not apply to decisions about routine medical treatment. Such
41 decisions shall be governed by subdivision three of this section.

42 § 7. The opening paragraph of subdivision 1 of section 2994-l of the
43 public health law, as amended by chapter 40 of the laws of 2024, is
44 amended to read as follows:

45 If a patient with an order to withhold or withdraw life-sustaining
46 treatment is transferred from a mental hygiene facility to a hospital or
47 from a hospital to a different hospital, including a mental hygiene
48 hospital, any such order or plan shall remain effective until an attend-
49 ing practitioner first examines the transferred patient, whereupon an
50 attending practitioner must either:

51 § 8. Paragraph (a) of subdivision 4 of section 2994-m of the public
52 health law, as amended by chapter 708 of the laws of 2019, is amended to
53 read as follows:

54 (a) These procedures are required only when: (i) the ethics review
55 committee is convened to review a decision by a surrogate to withhold or
56 withdraw life-sustaining treatment for: (A) a patient in a residential

1 health care facility pursuant to paragraph (b) of subdivision five of
2 section twenty-nine hundred ninety-four-d of this article; (B) a patient
3 in a general hospital or mental hygiene hospital, pursuant to paragraph
4 (c) of subdivision five of section twenty-nine hundred ninety-four-d of
5 this article; or (C) an emancipated minor patient pursuant to subdivi-
6 sion three of section twenty-nine hundred ninety-four-e of this article;
7 or (ii) when a person connected with the case requests the ethics review
8 committee to provide assistance in resolving a dispute about proposed
9 care. Nothing in this section shall bar health care providers from first
10 striving to resolve disputes through less formal means, including the
11 informal solicitation of ethical advice from any source.

12 § 9. Paragraph (c) of subdivision 4 of section 2994-m of the public
13 health law, as amended by chapter 708 of the laws of 2019, is amended to
14 read as follows:

15 (c) When an ethics review committee is convened to review decisions
16 regarding hospice care for a patient in a general hospital, mental
17 hygiene hospital, or residential health care facility, the responsibil-
18 ities of this section shall be carried out by the ethics review commit-
19 tee of the general hospital, mental hygiene hospital, or residential
20 health care facility, provided that such committee shall invite a repre-
21 sentative from hospice to participate.

22 § 10. This act shall take effect on the one hundred eightieth day
23 after it shall have become a law.