§ 2994-r. Special proceeding authorized; court orders; health care guardian for minor patient. 1. Special proceeding. Any person connected with the case and any member of the hospital ethics review committee may commence a special proceeding pursuant to article four of the civil practice law and rules in a court of competent jurisdiction with respect to any matter arising under this article.

2. Court orders designating surrogate. A court of competent jurisdiction may designate any individual from the surrogate list to act as surrogate, regardless of that individual's priority on the list, if the court determines that such appointment would best accord with the patient's wishes or, if the patient's wishes are not reasonably known, with the patient's best interests. The court may remove a surrogate on the ground that the surrogate: (a) is not reasonably available, willing and competent to fulfill his or her obligations under this article; (b) is acting in bad faith; or (c) is the subject of an order of protection protecting the patient or has been arrested or charged for a criminal act that allegedly caused the patient's lack of capacity or substantially injured or impaired the health status of the patient, provided that the application of this provision in a particular case may be waived or modified in the interest of justice. Unless otherwise determined by a court, no surrogate decision made prior to an order designating a surrogate shall be deemed to have been invalid because of the issuance of a designating order.

3. Court orders to withhold or withdraw life-sustaining treatment. A court of competent jurisdiction may authorize the withholding or withdrawal of life-sustaining treatment from a person if the court determines that the person lacks decision-making capacity, and withdrawing or withholding the treatment would accord with the standards set forth in subdivision five of section twenty-nine hundred ninety-four-d of this article.

4. Health care guardian for a minor patient. (a) No appointment shall be made pursuant to this subdivision if a parent or legal guardian of the person is available, willing, and competent to decide about treatment for the minor.

(b) The following persons may commence a special proceeding in a court of competent jurisdiction to seek appointment as the health care guardian of a minor patient solely for the purpose of deciding about life-sustaining treatment pursuant to this article:

(i) the hospital administrator;

(ii) an attending practitioner;

(iii) the local commissioner of social services or the local commissioner of health, authorized to make medical treatment decisions for the minor pursuant to section three hundred eighty-three-b of the social services law; or

(iv) an individual, eighteen years of age or older, who has assumed care of the minor for a substantial and continuous period of time.

(c) Notice of the proceeding shall be given to the persons identified in section seventeen hundred five of the surrogate's court procedure act.

(d) Notwithstanding any other provision of law, seeking appointment or being appointed as a health care guardian shall not otherwise affect the legal status or rights of the individual seeking or obtaining such appointment.