

BILL TEXT:

STATE OF NEW YORK

5259--A

Cal. No. 1134

2011-2012 Regular Sessions

IN SENATE

May 3, 2011

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the public health law, in relation to extending the provisions of the Family Health Care Decisions act to decisions regarding hospice care

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

1 Section 1. Subdivision 18 of section 2994-a of the public health law,
2 as added by chapter 8 of the laws of 2010 is amended, and two new subdivi-
3 sions 5-a and 17-a are added to read as follows:

4 5-a. "Decisions regarding hospice care" means the decision to enroll
5 or disenroll in hospice, and consent to the hospice plan of care and
6 modifications to that plan.

7 17-a. "Hospice" means a hospice as defined in article forty of this
8 chapter, without regard to where the hospice care is provided.

9 18. "Hospital" means a general hospital [~~or~~], a residential health
10 care facility, or hospice.

11 § 2. Subdivision 1 of section 2994-b of the public health law, as
12 added by chapter 8 of the laws of 2010, is amended to read as follows:

13 1. This article shall apply to health care decisions regarding health
14 care provided in a hospital [~~to~~], and to decisions regarding hospice
15 care without regard to where the decision is made or where the care is
16 provided, for a patient who lacks decision-making capacity, except as
17 limited by this section.

18 § 3. Paragraph (b) of subdivision 3 of section 2994-c of the public
19 health law, as added by chapter 8 of the laws of 2010, is amended to
20 read as follows:

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

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1 (b) (i) In a residential health care facility, a health or social
2 services practitioner employed by or otherwise formally affiliated with
3 the facility must independently determine whether an adult patient lacks
4 decision-making capacity.

5 (ii) In a general hospital a health or social services practitioner
6 employed by or otherwise formally affiliated with the facility must
7 independently determine whether an adult patient lacks decision-making
8 capacity if the surrogate's decision concerns the withdrawal or with-
9 holding of life-sustaining treatment.

10 (iii) With respect to decisions regarding hospice care for a patient
11 in a general hospital or residential health care facility, the health or
12 social services practitioner must be employed by or otherwise formally
13 affiliated with the general hospital or residential health care facili-
14 ty.

15 § 4. The opening paragraph of subdivision 5 of section 2994-d of the
16 public health law, as added by chapter 8 of the laws of 2010, is amended
17 to read as follows:

18 Decisions to withhold or withdraw life-sustaining treatment. In addi-
19 tion to the standards set forth in subdivision four of this section,
20 decisions by surrogates to withhold or withdraw life-sustaining treat-
21 ment (including decisions to accept a hospice plan of care that provides
22 for the withdrawal or withholding of life-sustaining treatment) shall be
23 authorized only if the following conditions are satisfied, as applica-
24 ble:

25 § 5. Subparagraph (iii) of paragraph (b) of subdivision 4 of section
26 2994-g of the public health law, as added by chapter 8 of the laws of
27 2010, is amended to read as follows:

28 (iii) In a residential health care facility, and for a hospice patient
29 not in a general hospital, the medical director of the facility or
30 hospice, or a physician designated by the medical director, must inde-
31 pendently determine that he or she concurs that the recommendation is
32 appropriate; provided that if the medical director is the patient's
33 attending physician, a different physician designated by the residential
34 health care facility or hospice must make this independent determi-
35 nation. Any health or social services practitioner employed by or other-
36 wise formally affiliated with the facility or hospice may provide a
37 second opinion for decisions about physical restraints made pursuant to
38 this subdivision.

39 § 6. Subdivision 5 of section 2994-g of the public health law is
40 amended by adding a new paragraph (c) to read as follows:

41 (c) With respect to a decision regarding hospice care for a patient in
42 a general hospital or residential health care facility, the second
43 physician must be designated by the general hospital or residential
44 health care facility.

45 § 7. Subdivision 4 of section 2994-m of the public health law is
46 amended by adding a new paragraph (c) to read as follows:

47 (c) When an ethics review committee is convened to review decisions
48 regarding hospice care for a patient in a general hospital or residen-
49 tial health care facility, the responsibilities of this section shall be
50 carried out by the ethics review committee of the general hospital or
51 residential health care facility, provided that such committee shall
52 invite a representative from hospice to participate.

53 § 8. Subdivision 13 of section 2994-aa of the public health law, as
54 added by chapter 8 of the laws of 2010, is amended to read as follows:

55 13. "Nonhospital order not to resuscitate" means an order that directs
56 emergency medical services personnel, hospice personnel and hospital

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1 emergency services personnel not to attempt cardiopulmonary resusci-
2 tation in the event a patient suffers cardiac or respiratory arrest.
3 § 9. This act shall take effect on the sixtieth day after it shall
4 have become a law.
