

SENATE, No. 980

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1996

By Senators CARDINALE and SCOTT

1 AN ACT concerning the withholding or withdrawing of life-sustaining
2 measures by private health care institutions and amending P.L.1991,
3 c.201.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. Section 13 of P.L.1991, c.201 (C.26:2H-65) is amended to read
9 as follows:

10 13. a. In addition to any rights and responsibilities recognized or
11 imposed by, or pursuant to, this act, or any other law, a health care
12 institution shall have the following rights and responsibilities:

13 (1) A health care institution shall adopt such policies and practices
14 as are necessary to provide for routine inquiry, at the time of
15 admission and at such other times as are appropriate under the
16 circumstances, concerning the existence and location of an advance
17 directive.

18 (2) A health care institution shall adopt such policies and practices
19 as are necessary to provide appropriate informational materials
20 concerning advance directives to all interested patients and their
21 families and health care representatives, and to assist patients
22 interested in discussing and executing an advance directive.

23 (3) A health care institution shall adopt such policies and practices
24 as are necessary to educate patients and their families and health care
25 representatives about the availability, benefits and burdens of
26 rehabilitative treatment, therapy and services, including but not limited
27 to family and social services, self-help and advocacy services,
28 employment and community living, and use of assistive devices. A
29 health care institution shall, in consultation with the attending
30 physician, assure that such information is discussed with a patient and
31 his health care representative and made a part of the decision making
32 process set forth in section 11 of [this act] P.L.1991, c.201
33 (C.26:2H-63), as appropriate under the circumstances.

34 (4) In situations in which a transfer of care is necessary, including

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 a transfer for the purpose of effectuating a patient's wishes pursuant
2 to an advance directive, a health care institution shall, in consultation
3 with the attending physician, take all reasonable steps to effect the
4 appropriate, respectful and timely transfer of the patient to the care of
5 an alternative health care professional or institution, as necessary, and
6 shall assure that the patient is not abandoned or treated disrespectfully.
7 In such circumstances, a health care institution shall assure the timely
8 transfer of the patient's medical records, including a copy of the
9 patient's advance directive.

10 (5) A health care institution shall establish procedures and
11 practices for dispute resolution, in accordance with section 14 of [this
12 act] P.L.1991, c.201 (C.26:2H-66).

13 (6) A health care institution shall adopt such policies and practices
14 as are necessary to inform physicians, nurses and other health care
15 professionals of their rights and responsibilities under this act, to
16 assure that such rights and responsibilities are understood, and to
17 provide a forum for discussion and consultation regarding the
18 requirements of this act.

19 b. A private[, religiously-affiliated] health care institution having
20 deeply held moral or religious convictions with respect to carrying out
21 certain advance directives may develop institutional policies and
22 practices defining circumstances in which it will decline to participate
23 in the withholding or withdrawing of specified measures utilized to
24 sustain life. Such policies and practices shall be written, and shall be
25 properly communicated to patients and their families and health care
26 representatives prior to or upon the patient's admission, or as soon
27 after admission as is practicable.

28 If the institutional policies and practices appear to conflict with the
29 legal rights of a patient wishing to forego health care, the health care
30 institution shall attempt to resolve the conflict, and if a mutually
31 satisfactory accommodation cannot be reached, shall take all
32 reasonable steps to effect the appropriate, timely and respectful
33 transfer of the patient to the care of another health care institution
34 appropriate to the patient's needs, and shall assure that the patient is
35 not abandoned or treated disrespectfully.

36 c. Nothing in this act shall be construed to require a health care
37 institution to participate in the beginning, continuing, withholding or
38 withdrawing of health care in a manner contrary to law or accepted
39 medical standards.

40 (cf: P.L.1991, c.201, s.13)

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42 2. This act shall take effect immediately.

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STATEMENT

This bill would permit private health care institutions having deeply held moral or religious convictions to establish policies and practices defining circumstances in which it will decline to participate in the withholding or withdrawing of specified life-sustaining measures. Presently, under the "New Jersey Advance Directives for Health Care Act" (P.L.1991, c.201), only a private "religiously-affiliated" health care institution may decline to participate in the withholding or withdrawing of life-sustaining measures.

Permits certain private health care institutions to determine circumstances under which it will decline to withhold or withdraw life-sustaining measures.