

ASSEMBLY, No. 340

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

SYNOPSIS

Requires health care representative to make health care decisions for incapacitated patient in accordance with patient's religious beliefs.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning advance directives for health care and
2 amending P.L.1991, c.201.

3

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

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7 1. Section 9 of P.L.1991, c.201 (C.26:2H-61) is amended to
8 read as follows:

9 9. a. If it has been determined that the patient lacks decision
10 making capacity, a health care representative shall have authority to
11 make health care decisions on behalf of the patient. The health care
12 representative shall act in good faith and within the bounds of the
13 authority granted by the advance directive and by this act.

14 b. If a different individual has been appointed as the patient's
15 legal guardian, the health care representative shall retain legal
16 authority to make health care decisions on the patient's behalf,
17 unless the terms of the legal guardian's court appointment or other
18 court decree provide otherwise.

19 c. The conferral of legal authority on the health care
20 representative shall not be construed to impose liability upon the
21 health care representative for any portion of the patient's health care
22 costs.

23 d. An individual designated as a health care representative or as
24 an alternate health care representative may decline to serve in that
25 capacity.

26 e. The health care representative shall exercise the patient's
27 right to be informed of the patient's medical condition, prognosis
28 and treatment options, and to give informed consent to, or refusal
29 of, health care.

30 f. In the exercise of these rights and responsibilities, the health
31 care representative shall seek to make the health care decision the
32 patient would have made had he possessed decision making
33 capacity under the circumstances, or, when the patient's wishes
34 cannot adequately be determined, shall make a health care decision
35 in the best interests of the patient, and in accordance with the
36 patient's religious beliefs.

37 (cf: P.L.1991, c.201, s.9)

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39 2. This act shall take effect on the 60th day after enactment.

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42 STATEMENT

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44 This bill amends the "New Jersey Advance Directives for Health
45 Care Act," P.L.1991, c.201 (C.26:2H-53 et seq.), to provide that a

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

Matter underlined thus is new matter.

1 designated health care representative shall make health care
2 decisions in accordance with the patient's religious beliefs, as well
3 as in the best interests of the patient, as the law currently provides.
4 The advance directives law provides that an adult may execute
5 an advance directive, which may include a proxy directive
6 designating a competent adult to act as his health care
7 representative and an instruction directive, stating his general
8 treatment philosophy and objectives or his specific wishes
9 regarding the provision, withholding, or withdrawal of any form of
10 health care, including life-sustaining treatment.