



new york state **RIGHT TO LIFE COMMITTEE, INC.**

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Memo in Opposition to A204 Gottfried/S4685 Rivera

New York State Right to Life strongly opposes A204 Gottfried/S4685 Rivera which would make “medical futility” a standard for applying DNR orders under the Family Health Care Decision Act and the Surrogate’s Court Procedure Act. The pertinent question here is why can a doctor, with all of his/her human biases and without absolute knowledge, override a patient’s wishes to have resuscitation attempted? Who makes the decision of when a human life is no longer worth saving? According to this bill it is two medical practitioners, not the patient affected.

- This bill states that if resuscitation is “medically futile” for a patient, meaning that if “an attending physician determines, with the independent concurrence of a second physician, to a reasonable degree of medical certainty, that in the event of a cardiac arrest or respiratory arrest, resuscitation would be unsuccessful in restoring cardiac and respiratory function or that the patient will experience repeated arrests in a short time period before death occurs,” then a DNR order can be applied. In other words, this bill allows DNR orders to be applied to patients without their clear consent under these conditions. As Americans and as New Yorkers, we value freedom, and we value the right of individuals to make decisions for themselves. This bill gives inappropriate discretion to medical professionals, allowing their conscious or unconscious biases to overrule patient autonomy.
- Furthermore, the concept of medical futility is open to interpretation, and judgements regarding at what point intervention becomes medically futile are often subjective. The National Council on Disability has reported that, in its study *Medical futility and Disability Bias*, it “**found many healthcare providers critically undervalue life with a disability, where they deem treatment ‘futile’ or ‘nonbeneficial’ – oftentimes despite the wishes of the patient to the contrary.**” Further, in the key findings to its report, the National Council on Disability found that “**Hospitals are rarely transparent with their medical futility policies to patients and the general public.**” This is troubling, especially considering that a hospital or physician may have a different conception of medical futility than the patient being cared for. What if a hospital were to determine that resuscitation for a patient is “medically futile” because the patient, in the subjective judgement of two doctors, has a low quality of life? There is no reason to assume that a hospital or that medical practitioners will be making such decisions based on an objective standard and every reason to suspect that the decision will be made based on a subjective quality-of-life ethic.

As much as its supporters might claim otherwise, this bill is not about medical necessity. It is about curbing patient autonomy and diminishing patient value. It is about imposing a quality-of-life ethic on those who need care and provision at the most vulnerable point in their lives. For this reason, New York State Right to Life urges all legislators to vote against this bill.