In the Matter of the Application of Samuel KAHN, Petitioner,
v.
Howard KRAMER, as Guardian of the Person of the Person of Eileen Beth Kramer, Respondent.

No. 26811/10.Oct. 10, 2014.

Morton Avigdor, Esq. for Petitioner, Samuel Kahn Edward Weiner, Esq. of counsel to Maimonides Hospital.
Howard Kramer as Guardian, Respondent, pro se.

Opinion
LARRY D. MARTIN, J.

The following papers numbered 1 to read on this petition and cross motion:
Papers Numbered
Notice of Motion/Order to Show Cause/
Petition/Cross Motion and
Affidavits (Affirmations) Annexed
Opposing Affidavits (Affirmations)

Petitioner Samnel Kahn ("petitioner") moves, by order to show cause, for an order: (1) enjoining Respondent Howard Kramer ("respondent") as Guardian of the person of Eileen Beth Kramer ("patient K"),1 any of his agents or Maimonides Hospital ("the Hospital") from withdrawing any life-support treatment from patient K until the instant petition can be fully litigated and a decision rendered; and (2) granting the petition herein.

Background

Patient K is a 60–year old woman, diagnosed with a mental disability since early childhood, and has an estimated Intellect Quotient ("IQ") score in the range of 30 to 60. For almost 40 years, patient K has been a patient at the Hebrew Academy for Special Children resident facility (the "residence"), where petitioner is the Chief Executive Officer.

Respondent is patient K's brother. By Guardianship Letters2 ("Guardianship Letters") dated February 25, 1994, the Sullivan County Surrogate's Court appointed respondent as the guardian of patient K's person. The Guardianship Letters issued specified that the guardianship was pursuant to the provisions of Article 17–A of Surrogate's Court and Procedure Act ("SCPA") § 1750.

On September 11, 2014, patient K suffered a cardiac arrest and deprivation of oxygen to her brain which resulted in significant brain damage. Patient K was removed from the residence to the Hospital, where she is currently on a ventilator and other life-sustaining treatment. Subsequently, after consulting with the Hospital staff caring for patient K and attending a bio-ethics committee meeting at the Hospital where patient K's condition and prognosis were discussed, respondent requested that the Hospital discontinue life-sustaining treatment to patient K.

Thereafter, upon learning of respondent's decision to withhold life-support treatment to patient K, petitioner commenced the instant proceeding on the basis that it would be contrary to patient K's alleged

Orthodox Jewish religious beliefs. By order to show cause dated September 18, 2014, a temporary restraining order was issued temporarily enjoining (1) respondent from making any medical decisions that would remove patient K from receiving medical care; and (2) the Hospital from removing life-sustaining or denying patient K any life-sustaining treatment (Kurtz, J.). The parties then appeared for a hearing on the instant petition on September 30, 2014, in Part 41, Room 741.

The September 30, 2014 Hearing

At the hearing before the Court, Dr. Benjamin C. Livshitz ("Dr.Livshitz"), Esther Fischer ("Ms.Fischer"), one of the residence managers, Dr. James Wernz ("Dr.Wernz"), the Hospital's consulting physician for patient K, and respondent testified. Morton M. Avigdor, Esq., as counsel for the residence, and Edward Weiner, Esq., as counsel for the Hospital, made oral arguments on the record. Barbara Abikoff ("Ms.Abikoff"), patient K's cousin and one of the alternate guardians appointed by the Guardianship Letters, was also present at the hearing.

Testimony of Dr. Livshitz

*2 Dr. Livshitz testified as an expert witness on behalf of petitioner. Dr. Livshitz is of the opinion that "[a]s best as [he] can tell, [patient K] is not in pain at this time" (tr at 3:22–23) while she remains on the ventilator. Dr. Livshitz testified that if life-sustaining treatment were to be removed from patient K, she would likely experience oxygen withdrawal (tr at 4:1–2) and also that it "certainly could result in pain" (tr at 4:1–5) if nutrition and hydration were removed. On cross-examination by Mr. Weiner, Dr. Livshitz admitted that respondent and his family had only requested that patient K's ventilator be removed and clarified that there had never been a request for the discontinuance of hydration and feeding (tr at 6:1–9). Additionally, Dr. Livshitz acknowledged and did not dispute the findings of the Hospital's neurology department (after the performance of three separate tests) at a bio-ethics committee meeting regarding patient K's care and status, which confirmed that patient K had suffered significant brain damage as a result of the deprivation of oxygen to the brain following her cardiac arrest (tr at 5:1–13). Indeed, Dr. Livshitz agreed with the findings at the meeting that it was "unlikely" that patient K "will recover" (tr at 5:19; 6:24) and further testified that he did not anticipate that patient K would have any significant neurological recovery (tr at 11:2–3). Dr. Livshitz did not believe that patient K "was mentally competent to make important ... decisions regarding her health" (tr at 9:16–17).

Testimony of Esther Fischer

Ms. Fischer testified that she had been caring for patient K for fifteen years and that she saw her at least five days per week (tr at 12:6–12). Ms. Fischer stated that patient K "looked forward to holidays" and participating in the Jewish cultural rituals (tr at 12:5–18). According to Ms. Fischer, patient K never indicated to her any of her plans or wishes for the end of her life (tr at 13:2). Ms. Fischer thought that patient appeared "happy to practice what we were practicing, which is Orthodox Judaism" (tr at 13:13–17). Ms. Fischer further testified she is of the opinion that patient lived as an observant Jew for 40 years and that she should die as an observant Jew (tr at 13:19).

On cross-examination, Ms. Fischer gave an affirmative response to respondent's questions regarding whether she thought patient K enjoyed religious practices from a cultural "point of view" (tr at 16:11–13). Specifically, Ms. Fischer testified that she believed that to patient K, "religion meant ... getting new clothing for a holiday, having meals" (tr at 6:5–6). When asked whether she believed patient K would have enjoyed the same even if she were in a different religious setting, Ms. Fischer responded "[w]ouldn't we all?" (tr at 17:2–6).

Testimony of Dr. Wernz

Dr. Wernz testified that his first consultation with patient K was on September 12, 2014, the day after her admission to the Hospital (tr at 24:23–25). Dr. Wernz testified that, on examination of patient K, it was noted that she had suffered "myoclonic jerks" (tr at 25:11–16). According to Dr. Wernz, "it is well-known in palliative medicine that if there is concern about lack of oxygen to the brain, what we call an oxygen encephalopathy, if there are myoclonic jerks following this, it's a very bad prognosis for any significant neurologic recovery" (tr at 25:11–16). Dr. Wernz also explained that "palliative extubation" is used "in a situation where the prognosis is grave and the family wishes to save the patient from further suffering" (tr at 26:2–5). Dr. Wernz further testified that medication is administered "so there is no stress, either shortness of breath or discomfort during the extubation" (tr at 26:6–10)

*3 Dr. Wernz also stated that patient K is currently in a "vegetative state" and that it was "difficult to say" whether she is currently experiencing pain while on the ventilator (tr at 27:2–7) adding that "No one will ever know" (tr at 27:1–7). Dr. Wernz further testified that if the ventilator is removed, patient K would not experience any pain "[b]ecause [the Hospital] give [s] medication to prevent any pain or suffering" (tr at 27:11–16). However, Dr. Wernz goes on to testify that patient K's "endotracheal tube" which "goes into her mouth, down to her trachea, it's taped to her lips and it has to cause suffering. Having that out will only give relief of suffering" to patient K (tr at 27:16–20).

Additionally, Dr. Wernz testified that patient K's attending physician made a determination to a reasonable degree of medical certainty regarding her lack of capacity for medical decision-making and that the same had been noted in writing somewhere (tr at 27:24–28:5). On cross-examination, when asked whether life-sustaining treatment would impose an extraordinary burden on patient K, Dr. Wernz responded "[y]es, it would" (tr at 28:14).

Testimony of Respondent

At the hearing, respondent testified that patient K became a patient at the residence after their mother, patient K's primary care-giver passed away in 1973, when patient K was about 18 years old (tr at 29:20–24). Respondent testified that patient K had been diagnosed as mentally disabled but the cause had never been determined as to whether it was a "category of emotional disability versus schizophrenia" (tr at 31:9–12). Respondent described patient K as a "very charming person," but that "she has really no capacity for anything that's complex. You could maybe get her to talk about what she did at ... a workshop, in terms of making salt shakers, from the day before. That is about the extent of complexity that she could understand. She is not even close to being able to make anything related to medical decisions" (tr at 30:18–31:1). Respondent testified that patient K's IQ is "about a 30 or a 40, perhaps as high as 50" (tr at 30:18–20).

Equally important, respondent testified that their parents were neither Orthodox and nor "very religious at all," and that he would describe them as "cultural [that is, secular] Jews" (tr at 30:10–12). Likewise, petitioner testified that patient K "would not understand, would not have a concept of religion. She may have enjoyed things such as singing, or even going to temple or eating certain foods on certain days, but she would not have connected that in any way to a religious belief. Or any type of having any sort of religious conception affiliated with that. So she may have enjoyed the activities, but it was not that you could say she observed and knew what those things meant" (tr at 31:16–24).

Regarding whether he ever had any conversations with patient K about religion, respondent testified that it "would be ridiculous" because "[a]nyone who knew her would know that that was not a level at which she-you would have a discussion" (tr at 41:4–10). Further, respondent testified that if patient K were here,

prior to her cardiac arrest, “and you tried to explain the situation to her, you would not be able to determine what she would want” (tr at 32:4–11).

*4 When asked whether he thought it would be in patient K's best interests to be removed from life-support, respondent testified that he believed that the question at issue “is not whether we remove the ventilator or what procedures we stop. For [him], the issue for [him] here is who makes the decisions” (tr at 32:15–18). Respondent stated that he has a “real strong conviction that these decisions should be made by” him, as her legal guardian, and her family members, “in consultation with her doctors” (tr at 32:15–22).

Respondent also testified that he and his sister spoke about “20 to 30 times over the course of a year” (tr at 38:18–20). “The staff has [his] cell phone and they call [him] whenever she wants to talk to” him (tr at 38:1–18). Respondent points out that he has “made medical decisions in the past” for patient K (tr at 38:25–39:1). For instance, when patient K had “cancer of the uterus” about 10 to 13 years ago, he “took an active part ... in research ... what medical procedures would be most appropriate, and it actually was [him]” who “made a decision on a certain type of medical ... treatment for her” (tr at 39:1–6).

Arguments on the Record by Mr. Avidgor

Mr. Avigdor, as petitioner's counsel, contended that the residence “has standing in this matter because they have cared for her for over 40 years. They know her, they know her well. And they know her preferences and they know her inclinations. And yes, perhaps she did not have a full appreciation of religiosity. But in whatever way she understood it, she enjoyed participating it the rituals, whether they be food, whether they be attending synagogue” (tr at 43:3–10). Mr. Avigdor claimed that the residence “has certainly been so much more involved in [patient K's] medical care than respondent” (44:3–9).

Also, Mr. Avigdor argued that the Guardianship Letters issued to respondent were limited and “not full letters” (tr at 37:4–8) and that respondent needs to return to the Surrogate's Court, Sullivan County, to request “absolute rights to terminate [patient K's] life” (tr at 37:2–11). Mr. Avigdor next argued that there is no evidence that removing patient K from the ventilator would be in her best interest (tr at 43:24–25) or that it would result in no pain to her (tr at 44:10–14). Mr. Avigdor implied that the “burden of proof as to whether this is in the best interest of [patient K] and the intentions of [patient K]” is higher because respondent was appointed as a guardian by the Surrogate's Court, Sullivan County, and was not chosen by patient K herself (tr at 43:15–21).

Arguments on the Record by Mr. Weiner

Mr. Weiner, as counsel for the Hospital, noted that patient K has an “extremely limited IQ, somewhere between 40 and 60, maybe 30 and 60” (tr at 41:23–25). Mr. Weiner contended that it is the Hospital's opinion that “[patient K] could not have appreciated that she was in a religious Orthodox versus nonreligious versus no-religion-at-all setting. She didn't have that ability to appreciate it or participate in her own medical decision-making” (tr at 42:1–6). Mr. Weiner maintained that deference should be give to respondent, as patient K's guardian (tr at 42:7–15).

*5 In response to the Court's question regarding how long patient K will survive if the ventilator is removed, Mr. Weiner responded that “[i]t could be a matter of days to a matter of months” as was confirmed by the Hospital physicians who examined patient K (tr at 18:3–11).

Petitioner's Contentions

Petitioner claims that, as the Chief Executive Officer of the residence, he has the authority to commence the instant proceeding. In support of the petition, petitioner contends that any decision to terminate life-

sustaining treatment to patient K would be contrary to her religious beliefs. Petitioner alleges that patient K has "been living as an Orthodox Jewish Woman for many years: she maintains a kosher diet; she observes the Shabbat; she celebrates the Jewish Holidays; [and] she observes many other Jewish practices and rituals" (Verified Petition, ¶ 10). Petitioner asserts that patient K "is also very familiar with Orthodox Jewish end of life issues" (Verified Petition, ¶ 14). According to petitioner, Orthodox Jewish religious beliefs do not condone removal of life-support treatment; in effect, to do so would be contrary to Halakha, Jewish law, and tantamount to murder of an individual (Verified Petition, ¶ 13).

Petitioner claims, upon information and belief, that respondent does not understand (Verified Petition, ¶ 9) patient K's wishes regarding her end-of-life care. Also, petitioner asserts that, "upon information and belief, [r]espondent has not consulted with the rabbinic authorities in reaching his decision to withdraw life supporting treatment from" patient K (Verified Petition, ¶ 16).

In addition, petitioner notes that respondent "lives in Denver and has very little contact (almost none at all) with Ms. Kramer. Over the last several years he has seldom if ever visited [patient K]. They have very little to do with one another" (Verified Petition, ¶ 9). Petitioner further argues that respondent has not met the high burden of evidence required to remove patient K from life support or demonstrated that this would be in her best interests.Finally, petitioner seeks a judgment declaring that patient K's life cannot be prematurely ended as that would be "a violation of her wishes and her rights under New York law and religious law" (Verified Petition, ¶ 20).

Respondent's Contentions

In opposition, respondent, who appeared at the hearing pro se, argues that the assertions made in support of the request for the order to show cause (as well as in support of the underlying petition) were "knowingly false when [the order to show cause] was entered" (tr at 38:10–12). Respondent vehemently denies petitioner's assertions that he has "very little to do with" patient K and insists that he has always been involved in her care. Respondent explains that although he lives in Denver, Colorado, he visits patient K at the residence whenever he is in New York, typically; at least twice a year. Respondent claims that he used to speak to his sister about twice a month via Skype until a residence employee who arranged the calls left its employ. Respondent maintains that he would still speak to patient K on the telephone until she suffered her cardiac arrest. Respondent also points to patient K's annual Individual Service Plan dated July 3, 2014 in which the residence noted that: "[patient K's] brother is devoted and calls her occasionally. He lives out of town but will visit at least once a year. Over the past few months, as much as staff has tried, it has been difficult to arrange for her to Skype with her brother, but they are still working on it." In response to petitioner's contentions that patient K follows Orthodox Jewish practices, respondent counters that patient K "has followed the dietary and or practices of [the residence], she has done so because she is a resident and those are the rules and religious beliefs of the organization." Respondent maintains that patient K "does not comprehend such concepts as religion." Indeed, respondent asserts that their father selected the residence for patient K because of his belief in its reputation for quality patient care rather than on account of its religious affiliation.

*6 Respondent contends that as her legal guardian, he and patient K's family "have the right to determine the best care" for patient K in her current condition. According to respondent, on September 12, the Hospital staff caring for patient K advised him that "because of the extent of neurological damage suffered and other medical conditions, the most humane course of action would be to remove [patient K's] ventilator and administer palliative care." Respondent argues that it is he, as patient K's guardian, and not petitioner and petitioner's religious beliefs, who has the authority to be able to determine patient K's care and whether life-sustaining treatment should be withheld.

Finally, respondent requests that the stay imposed by the September 18, 2014 order to show cause be vacated.

Legal Analysis

It is well settled that all health-care decisions by the guardian of a mentally retarded person are to be made solely and exclusively in the best interests of the retarded person and, “when reasonably known or ascertainable with reasonable diligence, on the mentally retarded person's wishes, including moral and religious beliefs” (SCPA § 1750–b [2][a]; see Matter of Elizabeth M., 30 AD3d 780, 782 [3d Dept 2006]; see also Matter of Baby Boy W., 3 Misc.3d 656, 62 [Surr Ct, Broome County 2004). The applicable statute provides, in relevant part, that “[a]n assessment of the mentally retarded person's best interests shall include consideration of: (i) the dignity and uniqueness of every person; (ii) the preservation, improvement or restoration of the mentally retarded person's health; (iii) the relief of the mentally retarded persons's suffering by means of palliative care and pain management; (iv) the unique nature of artificially provided nutrition or hydration, and the effect it may have on the mentally retarded person; and (v) the entire condition of the person” (SCPA § 1750–b [2][b]). “Courts have looked to determine the patient's best interests by deciding whether the evidence establishes that the burdens of prolonged life outweigh any physical pleasure, emotional enjoyment, or intellectual satisfaction that the patient may still be able to derive from life' “ (Matter of DH, 15 Misc.3d 565, 571 [Sup Ct, Nassau County 2007]).
The Court of Appeals described the applicable procedure in Matter of M.B. (6 NY3d 437 [2006]), as follows:In the event a guardian [of a mentally retarded person] contemplates the withdrawal or withholding of life-sustaining treatment, SCPA 1750–b imposes a decision-making procedure that must be followed before the decision can be carried out. The threshold requirement is that the mentally retarded person's physician confirm to a reasonable degree of medical certainty, after consultation with another physician or a licensed psychologist, that the person currently lacks the capacity to make health care decisions (SCPA 1750–b [4][a]). The attending physician and another concurring physician must further attest that the mentally retarded person has one of three types of conditions: a terminal condition, permanent unconsciousness or “a medical condition other than such person's mental retardation which requires life-sustaining treatment, is irreversible and which will continue indefinitely,” and life-sustaining treatment imposes or would impose an extraordinary burden of the patient in light of the patient's medical condition and the expected outcome of the life-sustaining treatment (SCPA 1750–b [4][b][i], [ii])....
These conclusions by medical professionals are a condition precedent to any valid decision to end life-sustaining treatment-without them life-sustaining treatment must be afforded to the patient.

*7 If the requisite medical conclusions are made, the next step is for the guardian to express a decision to end life-sustaining treatment either in writing, signed by a witness, or orally in the presence of the attending physician and another witness, and the decision must be included in the patient's chart. The physician can then issue the appropriate medical orders or object to the guardian's decision but, in either case, the decision to end life-sustaining treatment cannot be implemented for 48 hours (SCPA 1750–b [4][e]). During that time, the physician must notify various parties including, in some circumstances, the mentally retarded person. The Act grants a number of persons and organizations automatic standing to lodge an objection-the mentally retarded person, a parent or adult sibling, the attending physician, any other health care practitioner providing services to the patient, the director of a residential facility that formerly cared fort the patient, the Commissioner of the Office of Mental Retardation and Developmental Disabilities (OMRDD), and, if the patient was treated in a residential facility, the Mental Hygiene Legal Service (MHLS) (SCPA 1750–b [5]).

Upon objection the guardian's decision is suspended (unless the suspension would itself result in the death of the patient) while a judicial proceeding is conducted “with respect to any dispute arising under this section, including objecting to the withdrawal or withholding of life-sustaining treatment because such withdrawal or withholding is not in accord with the criteria set forth in this section” (SCPA 1750–b [6]).

If at the conclusion of the 48–hour period there is no objection the guardian's decision to withdraw or withhold life-sustaining treatment is put into effect, without judicial involvement" (Matter of M.B., 6 NY3d at 442–43).

Certain individuals and/or entities, including petitioner (see SCPA § 1750–b [5][v], [4][e][ii]) may make an objection to a decision, made pursuant to SCPA § 1750–b (4), to withhold life-support treatment to a mentally retarded person. Petitioner and others authorized pursuant to SCPA § 1750–b (6) "may commence a special proceeding in a court of competent jurisdiction with respect to any dispute arising under this section, including objecting to the withdrawal or withholding of life-sustaining treatment because such withdrawal or withholding is not in accord with the criteria set forth in [SCPA § 1750–b]". In the case at bar, the initial issue presented to the Court is whether respondent's decision to withhold ventilator support to patient K would be inconsistent with patient K's purported religious beliefs. Based upon a review of the record presented by the parties, the Court finds that petitioner has failed to establish that patient K's religious beliefs were "reasonably known or ascertainable with reasonable diligence" as required by the statute (see SCPA § 1750–b [2][a]), so as to become a factor to be considered when making health-care decisions.

*8 The Court is well aware of the two competing concerns of petitioner, as the representative of the residence, and respondent, as patient K's legal guardian and brother. It is clear to the Court that both parties desire what they each believe is in the best interests of patient K. The Court is also mindful of the substantial care provided to patient K by the residence and notes petitioner's assertions that patient K had participated in many of the Orthodox Jewish religious practices while she resided there. No doubt, as is alleged by petitioner, many at the residence "deeply care for [her]" (Verified Petition, ¶ 4).

However, the Court also recognizes the respondent's position as patient K's legal guardian and brother and his authority to make health-care decisions on her behalf. Noteworthy, even though respondent's Guardianship Letters may not specifically state his power to make end-of-life decisions because he was appointed as patient K's guardian prior to the 2003 effective date of SCPA § 1750–b, the Court of Appeals held that such guardians are authorized to make end-of-life decisions without having to obtain, through a separate judicial proceeding, an amended guardianship order that specifically recognizes his authority as encompassing the power to end life-sustaining treatment (see Matter of M.B., 6 NY3d at 444; see also Matter of Claudia EE., 35 AD3d 112, 116 [3d Dept 2006]). The Court finds that petitioner's statements regarding respondent's lack of involvement in patient K's life and his lack of devotion to her are belied by the observations to the contrary as noted in patient K's Individual Service Plan dated July 3, 2014, prepared by the residence staff describing respondent's devotion, as recently as three months ago. The court finds petitioner's statements to the contrary in the petition are disingenuous at best.

Here, Dr. Lipschitz, Dr. Wernz, and respondent all confirm that patient K lacks the capacity to make determinations regarding her medical health. Respondent testified, without contradiction, that he believed that if patient K were here today, "before this happened and you tried to explain the situation to her, you would not be able to determine what she would want" (tr at 32:4–11; see SCPA § 1750–b [2][a]). Dr. Wernz describes patient K as being in a "vegetative state." Dr. Livschitz does not dispute the Hospital's findings that patient K sustained significant brain damage and stated that "[i]t is unlikely that [she] will recover" (see SCPA §§ 1750–b [2][b][ii], [2][b][v]). Dr. Livschitz acknowledges that there was never a request to remove nutrition or hydration to patient to K and that it is only the removal of patient K's ventilator is at issue. Dr. Livschitz testified that as "best as [he] can tell, [patient K] is not in any pain at this time" while patient K is on the ventilator (tr at 3:22–23). Insofar as respondent seeks the Hospital's implementation of palliative care in its treatment of patient K, Dr. Wernz explained that such care is used "in a situation where the prognosis is grave and the family wishes to save the patient from further suffering (tr at 26:2–5). Notably, Dr. Wernz further testified that medication is administered "so there is

no stress, either shortness of breath or discomfort during the extubation" (tr at 26:6–10; see SCPA §§ 1750–b [2][b][iii]).
*9 In light of the foregoing, the court finds that petitioner has failed to show that respondent's decision to withhold life-sustaining measures to patient K is not in accord with the criteria set forth in SCPA § 1750–b.

The other issue before the Court is whether petitioner is entitled to a judgment declaring that patient K's life cannot be prematurely ended, as that would be an alleged "violation of her rights under New York Law." The current record is insufficient to permit the Court to make this determination because it lacks: (1) patient K's complete medical chart at Maimonides Medical Center; (2) the results of the three neurological tests she underwent to assess her condition; (3) the minutes of the bio-ethics committee's meeting assessing patient K's prognosis; and (4) physicians' affirmations. The gravity of the responsibility weighing on the Court in deciding whether to permit respondent to withhold patient K's life outweighs any inconvenience from the delay in making the necessary evidentiary submissions. Sworn testimony at a pre-trial hearing is insufficient, in and of itself, for this Court to rule on whether respondent's decision to withhold life-sustaining treatment to patient K was properly made in accordance with SCPA § 1750–b. In this regard, the remainder of the petition is held in abeyance until the medical record is complete. Respondent is hereby directed to submit the aforementioned documents to the Court at a further hearing to be held in Part 41, Room 741, at 10:00 a.m. on Wednesday, October 15., 2014.

Conclusion

Accordingly, to the extent that petitioner seeks a permanent injunction enjoining respondent Howard Kramer as Guardian of the person of patient K, any of his agents or Maimonides Hospital from withdrawing any life-sustaining treatment from patient K on the basis of patient K's purported religious beliefs, the petition is denied on the merits. To the extent that petitioner seeks a permanent injunction enjoining respondent Howard Kramer as Guardian of the person of patient K, any of his agents or Maimonides Hospital from withdrawing any life-sustaining treatment from patient K on the basis of a purported violation of her rights under New York law, the petition is held in abeyance pending submission of the necessary evidence, pursuant to SCPA § 1750–b, as set forth in this decision and order.

The parties are directed to appear for a further hearing before the Court in Part 41, Room 741, at 10:00 a.m. on Wednesday, October 15, 2014. At this hearing, respondent is directed to submit the aforementioned documents for the Court's consideration and review. The stay imposed by the September 18, 2014 order to show cause is hereby continued.

1
At the request of the parties, Eileen Beth Kramer will be referred to as "patient K" hereinafter.
2
Three additional alternate guardians were appointed pursuant to the Guardianship Letters. Alternate Guardian Barbara Abikoff ("Ms.Abikoff") was present at the September 30, 2014, hearing before the Court.750-b [2] [a]).