

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

933

CA 12-00481

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, LINDLEY, AND SCONIERS, JJ.

IN THE MATTER OF THE APPLICATION OF
STEVEN I. GOLDSTEIN, AS PRESIDENT AND
CHIEF EXECUTIVE OFFICER OF HIGHLAND
HOSPITAL, PETITIONER-APPELLANT,
FOR THE APPOINTMENT OF A GUARDIAN FOR
JEAN C., AN ALLEGED INCAPACITATED PERSON,
RESPONDENT-RESPONDENT.

MEMORANDUM AND ORDER

SUSAN SEPANIAC, RESPONDENT.

DUTCHER & ZATKOWSKY, ROCHESTER (MILES P. ZATKOWSKY OF COUNSEL), FOR
PETITIONER-APPELLANT.

Appeal from an order and judgment (one paper) of the Supreme Court, Monroe County (William P. Polito, J.), entered May 13, 2011 in a proceeding pursuant to Mental Hygiene Law article 81. The order and judgment, insofar as appealed from, limited the authority of the appointed guardian to make end of life decisions.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Petitioner, a hospital administrator, commenced this proceeding pursuant to Mental Hygiene Law article 81 seeking a determination that respondent, Jean C., is an incapacitated person and seeking the appointment of a guardian for her person and property. Supreme Court granted the petition and appointed respondent's stepdaughter as guardian. The court included a provision in the order and judgment limiting the guardian's authority to make end of life decisions with respect to the withholding or withdrawal of artificial administration of nutrition or hydration. On appeal, petitioner contends that the limitation on the guardian's health care decision-making authority violated the Family Health Care Decisions Act (Public Health Law art 29-CC). Neither the guardian nor respondent appeal. We conclude that the appeal must be dismissed because petitioner is not aggrieved by the order and judgment (*see Gordon v LIN TV Corp.*, 89 AD3d 1459).

Entered: October 5, 2012

Frances E. Cafarell
Clerk of the Court