

1 H.567

2 Introduced by Representative Donahue of Northfield

3 Referred to Committee on

4 Date:

5 Subject: Health; health care decisions; DNR/COLST; hospice care; surrogacy;
6 substitute decision making

7 Statement of purpose of bill as introduced: This bill proposes to establish
8 statutory guidelines for allowing a surrogate decision maker to provide
9 informed consent for a do-not-resuscitate order, a clinician order for
10 life-sustaining treatment, or hospice care on behalf of a patient with no
11 available agent or guardian. The bill would also expressly prohibit any person
12 from taking action on behalf of a patient pursuant to the patient choice at end
13 of life laws.

14 An act relating to surrogate decision making for DNR/COLST and hospice
15 care

16 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 18 V.S.A. § 9708 is amended to read:

2 § 9708. ~~AUTHORITY AND OBLIGATIONS OF HEALTH CARE~~
3 ~~PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL~~
4 ~~CARE FACILITIES REGARDING DO-NOT-RESUSCITATE~~
5 ~~ORDERS AND CLINICIAN ORDERS FOR LIFE SUSTAINING~~
6 ~~TREATMENT~~

7 (a) As used in this section:

8 (1) “DNR/COLST” shall mean a do-not-resuscitate order (“DNR”) and
9 a clinician order for life sustaining treatment (“COLST”) as defined in section
10 9701 of this title.

11 (2) “Surrogate” means a family member of the patient or a person with a
12 known close relationship to the patient who may give informed consent for a
13 DNR/COLST if the patient does not have an agent or guardian or the patient’s
14 agent or guardian, or both if applicable, is unavailable.

15 (b) A DNR order and a COLST shall be issued on the Department of
16 Health’s “Vermont DNR/COLST form” as designated by rule by the
17 Department of Health.

18 (c) Notwithstanding subsection (b) of this section, health care facilities and
19 residential care facilities may document DNR/COLST orders in the patient’s
20 medical record in a facility-specific manner when the patient is in their care.

1 (d) A DNR order must:

2 (1) be signed by the patient's clinician;

3 (2) certify that the clinician has consulted, or made an effort to consult,
4 with the patient, and the patient's agent or guardian, if there is an appointed
5 agent or guardian;

6 (3) include either:

7 (A) the name of the patient; ~~agent; guardian, or other individual;~~
8 parent, if the patient is a minor; or surrogate giving informed consent for the
9 DNR and the individual's relationship to the patient; or

10 (B) certification that the patient's clinician and one other named
11 clinician have determined that resuscitation would not prevent the imminent
12 death of the patient, should the patient experience cardiopulmonary arrest; and

13 (4) if the patient is in a health care facility or a residential care facility,
14 certify that the requirements of the facility's DNR protocol required by section
15 9709 of this title have been met.

16 (e) A COLST must:

17 (1) be signed by the patient's clinician;

18 (2) include the name of the patient; ~~agent; guardian, or other~~
19 ~~individual;~~ parent, if the patient is a minor; or surrogate giving informed
20 consent for the COLST and the individual's relationship to the patient.

1 Sec. 2. 18 V.S.A. § 9710 is added to read:

2 § 9710. CONSENT FOR HOSPICE CARE

3 (a) As used in this section:

4 (1) “Hospice care” means interdisciplinary care given to improve the
5 quality of life of patients and their families facing the problems associated with
6 a terminal illness.

7 (2) “Surrogate” means a family member of the patient or a person with a
8 known close relationship to the patient who may give informed consent for
9 admission to hospice care if the patient does not have an agent or guardian or
10 the patient’s agent or guardian, or both if applicable, is unavailable.

11 (b) A surrogate may provide informed consent for a patient’s admission to
12 hospice care. Decisions made by a surrogate shall protect a patient’s own
13 wishes in the same manner as decisions made by an agent as described in
14 subsection 9711(d) of this title.

15 Sec. 3. 18 V.S.A. § 5293 is added to read:

16 § 5293. NO SUBSTITUTE DECISION MAKING

17 All actions taken by a patient pursuant to this chapter shall be taken by the
18 patient himself or herself. In no event shall a patient’s agent under an advance
19 directive executed pursuant to chapter 231 of this title, guardian, family
20 member, or person with a known close relationship to the patient take any
21 action on behalf of a patient under this chapter.

1 Sec. 4. EFFECTIVE DATES

2 (a) Secs. 1 and 2 shall take effect on July 1, 2014.

3 (b) Sec. 3 and this section shall take effect on passage.