

H. 874

An act relating to consent for admission to hospice care and for DNR/COLST orders

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 2 in its entirety and inserting a new Sec. 2 to read as follows:

Sec. 2. 18 V.S.A. § 9708(f) is amended to read:

(f) The Department of Health shall adopt by rule ~~no later than~~ on or before July 1, ~~2014~~ 2016, criteria for individuals who are not the patient, agent, or guardian, but who are giving informed consent for a DNR/COLST order. The rules shall include the following:

(1) other individuals permitted to give informed consent for a DNR/COLST order who shall be a family member of the patient or a person with a known close relationship to the patient; and

(2) parameters for how decisions should be made, which shall include at a minimum the protection of a patient's own wishes in the same manner as in section 9711 of this title; ~~and~~

~~(3) access to a hospital's internal ethics protocols for use when there is a disagreement over the appropriate person to give informed consent.~~

Second: By adding three new sections to be numbered Secs. 3, 4 and 5 to read as follows:

Sec. 3. 14 V.S.A. § 3075(g) is amended to read:

(g)(1) The guardian shall obtain prior written approval by the ~~probate division~~ Probate Division of the ~~superior court~~ Superior Court following notice and hearing:

(A) if the person under guardianship objects to the guardian's decision, on constitutional grounds or otherwise;

(B) if the ~~court~~ Court orders prior approval for a specific surgery, procedure, or treatment, either in its initial order pursuant to subdivision 3069(c)(2) of this title or anytime after appointment of a guardian;

(C) except as provided in subdivision (2) of this subsection, and unless the guardian is acting pursuant to an advance directive, before withholding or withdrawing life-sustaining treatment other than antibiotics; or

(D) unless the guardian is acting pursuant to an advance directive, before consenting to a do-not-resuscitate order or clinician order for life-sustaining treatment, as defined in 18 V.S.A. § 9701(6), unless a clinician as defined in 18 V.S.A. § 9701(5) certifies that the person under guardianship is likely to experience cardiopulmonary arrest before ~~court~~ Court approval can be obtained. In such circumstances, the guardian shall immediately notify the ~~court~~ Court of the need for a decision, shall obtain the clinician's certification prior to consenting to the do-not-resuscitate order or clinician order for

life-sustaining treatment, and shall file the clinician's certification with the ~~court~~ Court after consent has been given.

(2) The requirements of subdivision (1)(C) of this subsection shall not apply if obtaining a ~~court~~ Court order would be impracticable due to the need for a decision before ~~court~~ Court approval can be obtained. In such circumstances, the guardian shall immediately notify the ~~court~~ Court by telephone of the need for a decision, and shall notify the ~~court~~ Court of any decision made.

Sec. 4. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(11) "Guardian" means a person appointed by the Probate Division of the Superior Court who has the authority to make medical decisions pursuant to 14 V.S.A. § 3069~~(b)~~(c).

* * *

Sec. 5. 18 V.S.A. § 9708 is amended to read:

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

(a) As used in this section, “DNR/COLST” shall mean a do-not-resuscitate order (“DNR”) and a clinician order for ~~life-sustaining~~ life-sustaining treatment (“COLST”) as defined in section 9701 of this title.

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

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

(d) A DNR order must:

(1) be signed by the patient’s clinician;

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

(3) include either:

(A) the name of the patient; agent; guardian, in accordance with 14 V.S.A. § 3075(g); or other individual giving informed consent for the DNR and the individual's relationship to the patient; or

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

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

(e) A COLST must:

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

(2) include the name of the patient; agent; guardian, in accordance with 14 V.S.A. § 3075(g); or other individual giving informed consent for the COLST and the individual's relationship to the patient.

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And by renumbering the remaining section of the bill to be numerically correct.