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H.874

Senators Lyons and Flory move that the Senate propose to the House that the bill be amended by inserting three new sections to be Secs. 3–5 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

1 be obtained. In such circumstances, the guardian shall immediately notify the
2 ~~court~~ Court of the need for a decision, shall obtain the clinician’s certification
3 prior to consenting to the do-not-resuscitate order or clinician order for life-
4 sustaining treatment, and shall file the clinician’s certification with the ~~court~~
5 Court after consent has been given.

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

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

13 § 9701. DEFINITIONS

14 As used in this chapter:

15 * * *

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

19 * * *

1 Sec. 5. 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 LIFE-SUSTAINING TREATMENT

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

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

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

16 (d) A DNR order must:

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

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

1 (3) include either:

2 (A) the name of the patient; agent; guardian, in accordance with
3 14 V.S.A. § 3075(g); or other individual giving informed consent for the DNR
4 and the individual's relationship to the patient; or

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

8 (4) if the patient is in a health care facility or a residential care facility,
9 certify that the requirements of the facility's DNR protocol required by section
10 9709 of this title have been met.

11 (e) A COLST must:

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

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

16 * * *

17 and by renumbering Sec. 3, effective date, to be Sec. 6.