

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill  
3 No. 874 entitled “An act relating to consent for admission to hospice care and  
4 for DNR/COLST orders” respectfully reports that it has considered the same  
5 and recommends that the Senate propose to the House that the bill be amended  
6 by striking out Secs. 2 and 3 in their entirety and inserting six new sections to  
7 be Secs. 2–7 to read:

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

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

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

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

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

1       Sec. 3. OFFICE OF THE PUBLIC GUARDIAN; IRREVOCABILITY

2                   PROVISIONS IN ADVANCE DIRECTIVES

3           The Agency of Human Services shall consider the feasibility of a pilot  
4 project with the Office of the Public Guardian for representatives of that  
5 Office, including trained volunteers, to serve as agents under an advance  
6 directive for persons who wish to include in their advance directive a provision  
7 authorizing an agent to authorize or withhold care over the principal's  
8 objection pursuant to 18 V.S.A. § 9707(h) but who do not have anyone both  
9 suitable and willing to act as an agent.

10       Sec. 4. 18 V.S.A. § 9703 is amended to read:

11       § 9703. FORM AND EXECUTION

12           (a) An adult with capacity may execute an advance directive at any time.

13           (b) The advance directive shall be dated, executed by the principal or by  
14 another individual in the principal's presence at the principal's express  
15 direction if the principal is physically unable to do so, and signed in the  
16 presence of two or more witnesses at least 18 years of age, who shall sign and  
17 affirm that the principal appeared to understand the nature of the document and  
18 to be free from duress or undue influence at the time the advance directive was  
19 signed. A Vermont resident may execute an advance directive in any  
20 jurisdiction in this State without impairing its effectiveness or enforceability  
21 under Vermont law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

\* \* \*

(d) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a resident of a nursing home as defined in 33 V.S.A. § 7102 or a residential care facility unless an ombudsman, a recognized member of the clergy, an attorney licensed to practice in this ~~state~~, State, a mental health patient representative as described in subdivision 7253(1)(J) of this title, the Mental Health Care Ombudsman established pursuant to section 7259 of this title or a paralegal working for the Ombudsman under the supervision of an attorney licensed to practice in this State, or a ~~probate division~~ Probate Division of the ~~superior court~~ Superior Court designee signs a statement affirming that he or she has explained the nature and effect of the advance directive to the principal. It is the intent of this subsection to ensure that residents of nursing homes and residential care facilities are willingly and voluntarily executing advance directives.

(e) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a patient in a hospital, unless an ombudsman, a recognized member of the clergy, an attorney licensed to practice in this ~~state~~, State, a mental health patient representative as described in subdivision 7253(1)(J) of this title, the Mental Health Care Ombudsman established pursuant to section 7259 of this title or a paralegal working for the Ombudsman under the supervision of an attorney licensed to practice in this

1 ~~State, a probate division~~ Probate Division of the ~~superior court~~ Superior Court  
2 designee, or an individual designated under subsection 9709(c) of this title by  
3 the hospital signs a statement that he or she has explained the nature and effect  
4 of the advance directive to the principal.

5 \* \* \*

6 Sec. 5. 18 V.S.A. § 9719 is amended to read:

7 § 9719. OBLIGATIONS OF STATE AGENCIES

8 (a)(1) ~~No later than~~ On or before March 1, 2012, and from time to time  
9 thereafter, the ~~commissioner~~ Commissioner, in consultation with all  
10 appropriate agencies and organizations, shall adopt rules pursuant to 3 V.S.A.  
11 chapter 25 to effectuate the intent of this chapter. The rules shall cover at least  
12 one optional form of an advance directive with an accompanying form  
13 providing an explanation of choices and responsibilities, the Vermont  
14 DNR/COLST form as outlined in subsection 9708(b) of this title, the use of  
15 experimental treatments, a DNR identification, revocation of a DNR  
16 identification, and consistent statewide emergency medical standards for  
17 DNR/COLST orders and advance directives for patients and principals in all  
18 settings. The ~~commissioner~~ Commissioner shall also provide, but without the  
19 obligation to adopt a rule, optional forms for advance directives for individuals  
20 with disabilities, limited English proficiency, and cognitive translation needs.



1       Sec. 7. EFFECTIVE DATE

2           This act shall take effect on passage.

3

4

5           (Committee vote: \_\_\_\_\_)

6

\_\_\_\_\_

7

Senator \_\_\_\_\_

8

FOR THE COMMITTEE