

Testimony House Human Services Committee
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January 24, 2018

For those members of the committee who may not know me, I am the Executive Director of the Vermont Ethics Network (VEN). VEN is a statewide nonprofit organization working to promote ethics as the foundation of health care and health care decision-making. In addition, I also direct the Statewide Task Force on Palliative Care and Pain Management, serve as Chair of the Ethics Committee for the State of Vermont Department of Disabilities, Aging and Independent Living (DAIL), and am a member of the clinical consult team for the Central Vermont Medical Center Ethics Committee.

Thank you for the opportunity to testify on H.690, *an act relating to the explanation of advance directives and treating clinicians who may sign a DNR/COLST order*. The impetus behind this bill stems from recommendations of the Task Force on Palliative Care and Pain Management in their 2018 annual report.

Per those recommendations, the goal of the bill is to promote patient autonomy and remove barriers to completing advance care planning documents by amending the current advance directive statute to:

1. Expand the group of individuals authorized to serve as an explainer on an advance directive (18 V.S.A. § 9703); and
2. Revise the language to allow for out-of-state licensed clinicians to complete DNR/COLST orders for their Vermont patients. (18 V.S.A § 9708)

With regard to individuals authorized to serve as an explainer on an advance directive, per the current statute, people who are being admitted to or already reside in a hospital, nursing home or residential care facility need to have an “explainer” sign the advance directive affirming that they have explained the nature and effect of the document to the principal. The group of individuals authorized to serve as the explainer are, in practice, so limited that it is a barrier to the completion of documents in these settings. Additionally, the current statute is unclear as to whether the explainer on an advance directive can also serve as one of the two required witnesses. Resolution/clarification of these issues are necessary to appropriately support patients/residents in these facilities with their advance care planning needs and in completing advance directives.

To that end, we support the language in H.690 with one minor revision:

- Page 2, line 13: We recommend that §9703(b) be amended as follows: If the principal is being admitted to or is a resident of a nursing home or residential care facility or is being admitted to or is a patient in a hospital at the time of execution, the individual who explained the nature and effect of the advance directive to the principal pursuant to subsection (d) or (e) of this section may also serve as one of the witnesses to the principal’s execution of the advance directive under this subsection.

With respect to permitting out-of-state licensed clinicians to complete DNR/COLST orders for their Vermont patients, current law uses a definition of clinician that limits clinicians who can complete DNR/COLST orders only to those with a valid Vermont license. This is problematic for Vermont patients who receive their care at Dartmouth (or another out-of-state facility) from a clinician who is only licensed in that state and not dually licensed in Vermont. Strictly speaking, these out-of-state clinicians are not permitted to sign DNR/COLST orders for their Vermont patients. This is problematic from a quality care and patient self-determination standpoint—particularly for those you are seriously ill or at end-of-life.

We support the language as proposed in H.690.

On behalf of the Vermont Ethics Network and the Palliative Care and Pain Management Task Force we greatly appreciate the committee's past and current efforts to improve state policies surrounding advance directives, DNR/COLST orders, and access to palliative and hospice care.