

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred House Bill No.
3 690 entitled “An act relating to explanation of advance directives and treating
4 clinicians who may sign a DNR/COLST” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. **18 V.S.A. § 9701 is amended to read:**

8 **§ 9701. DEFINITIONS**

9 **As used in this chapter:**

10 * * *

11 (21) “Ombudsman” means:

12 **(A) an individual appointed as a long-term care ombudsman**
13 **under the program contracted through the Department of Disabilities,**
14 **Aging, and Independent Living pursuant to the Older Americans Act of**
15 **1965, as amended the State Long-Term Care Ombudsman or a**
16 **representative of the Ombudsman’s Office, as defined in 33 V.S.A. § 7501;**
17 **or**

18 **(B) a representative of** the agency designated as the Office of the
19 Mental Health Care Ombudsman pursuant to section 7259 of this title.

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(34) “~~Patient~~ Mental health patient representative” means the mental health patient representative established by section 7253 of this title.

Sec. 2. 18 V.S.A. § 9703 is amended to read:

§ 9703. FORM AND EXECUTION

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(b) The advance directive shall be dated, executed by the principal or by another individual in the principal’s presence at the principal’s express direction if the principal is physically unable to do so, and signed in the presence of two or more witnesses at least 18 years of age, who shall sign and affirm that the principal appeared to understand the nature of the document and to be free from duress or undue influence at the time the advance directive was signed. A health care provider may serve as a witness to the principal’s execution of the advance directive under this subsection. 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.

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(d)(1) 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 patient representative, a recognized member of the clergy, an attorney licensed to practice in this State, or a Probate Division of the Superior Court designee **one of the following individuals explains the nature and effect of an advance directive to the principal and** signs a statement affirming that he or she has explained the nature and effect of the advance directive to the principal **provided the explanation:**

- (A) **an ombudsman;**
- (B) a recognized member of the clergy;
- (C) an attorney licensed to practice in this State;
- (D) a Probate Division of the Superior Court designee;
- (E) an individual designated by a hospital pursuant to subsection 9709(d) of this title;
- (F) **a mental health patient representative;**
- (G) an individual who was volunteering at the nursing home or residential care facility without compensation at the time of the execution and had **been trained to explain received training approved by the State Long-**

1 **Term Care Ombudsman in the appropriate explanation of** advance
2 **directives in a nursing home or residential care facility setting;** ~~or~~

3 (H) the principal's primary care clinician, if the clinician was not
4 employed by the nursing home or residential care facility at the time of the
5 explanation; ~~or~~

6 **(I) [add catch-all provision here? with training requirement?].**

7 (2) It is the intent of this subsection to ensure that residents of nursing
8 homes and residential care facilities are willingly and voluntarily executing
9 advance directives.

10 (e) An advance directive shall not be effective if, at the time of execution,
11 the principal is being admitted to or is a patient in a hospital, unless ~~an~~
12 ~~ombudsman, a patient representative, a recognized member of the clergy,;~~
13 ~~an attorney licensed to practice in this State,; a Probate Division of the~~
14 ~~Superior Court designee, or an individual designated under subsection~~
15 ~~9709(c) of this title by the hospital~~ one of the following individuals has
16 explained the nature and effect of an advance directive to the principal
17 and signs a statement affirming that he or she has ~~explained the nature and~~
18 ~~effect of the advance directive to the principal~~ provided the explanation:

19 **(1) an ombudsman;**

20 **(2) a recognized member of the clergy;**

21 **(3) an attorney licensed to practice in this State;**

1 ~~nature and effect of an advance directive to patients as required by~~
2 ~~subsection 9703(d) of this title.~~

3 ~~(2) Every hospital shall designate an adequate number of~~
4 ~~individuals to explain the nature and effect of an advance directive to~~
5 ~~patients as required by subsection 9703(e) of this title.~~

6 Sec. 4. EFFECTIVE DATE

7 This act shall take effect on passage.

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15 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE