

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

H.690

Representative Haas of Rochester moves that the bill be amended as follows:

First: By adding two new sections to be Secs. 2a and 2b to read as follows:

Sec. 2a. 18 V.S.A. § 9706(c) is amended to read:

(c) Upon a determination of need by the principal’s clinician, or upon the request of the principal, agent, guardian, ombudsman, a mental health patient representative, health care provider, or any interested individual, the principal’s clinician, another clinician, or a clinician’s designee shall reexamine the principal to determine whether the principal has capacity. The clinician shall document the results of the reexamination in the principal’s medical record and shall make reasonable efforts to notify the principal and the agent or guardian, as well as the individual who initiated the new determination of capacity, of the results of the reexamination, if providing such notice is consistent with the requirements of HIPAA.

Sec. 2b. 18 V.S.A. § 9707(h) is amended to read:

(h)(1) An advance directive executed in accordance with section 9703 of this title may contain a provision permitting the agent, in the event that the principal lacks capacity, to authorize or withhold health care over the principal’s objection. In order to be valid, the provision shall comply with the following requirements:

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

* * *

(D)(i) An ombudsman, a mental health patient representative, attorney licensed to practice law in this State, or the Probate Division of the Superior Court designee shall sign a statement affirming that he or she has explained the nature and effect of the provision to the principal, and that the principal appeared to understand the explanation and be free from duress or undue influence.

(ii) If the principal is a patient in a hospital when the provision is executed, the ombudsman, mental health patient representative, attorney, or Probate Division of the Superior Court designee shall be independent of the hospital and not an interested individual.

* * *

Second: By adding a new section to be Sec. 4a to read as follows:
Sec. 4a. 18 V.S.A. § 9718(a) is amended to read:

(a) A petition may be filed in the Probate Division of the Superior Court under this section by:

(1) a principal, guardian, agent, ombudsman, a mental health patient representative, or interested individual other than one identified in an advance directive, pursuant to subdivision 9702(a)(10) of this title, as not authorized to bring an action under this section;

* * *