

No. 107. An act relating to allowing remote witnesses for advance directives for a limited time.

(H.950)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 9721 is added to read:

§ 9721. ADVANCE DIRECTIVES; COVID-19 STATE OF EMERGENCY;

REMOTE WITNESSES AND EXPLAINERS

(a) As used in this section, “remote witness” means a witness who is not physically present when a principal signs an advance directive.

(b)(1) Notwithstanding any provision of subsection 9703(b) of this title to the contrary, an advance directive executed by a principal between February 15, 2020 and the effective date of this section shall be deemed to be valid even if the principal signed the advance directive outside the physical presence of one or both of the required witnesses, provided all of the following conditions were met with respect to each remote witness:

(A) the principal and the remote witness were known to each other;

(B) the remote witness was informed about the role of a witness to the execution of an advance directive; and

(C) the principal included on the advance directive the name and contact information for the witness.

(2) An advance directive executed as set forth in subdivision (1) of this subsection shall be valid until June 30, 2021 unless amended, revoked, or suspended by the principal in accordance with this chapter prior to that date.

(c)(1) Notwithstanding any provision of subsection 9703(b) of this title to the contrary, an advance directive executed by a principal between the effective date of this section and June 30, 2021 shall be deemed to be valid even if the principal signed the advance directive outside the physical presence of one or both of the required witnesses, provided all of the following conditions are met with respect to each remote witness:

(A) the principal and the remote witness were known to each other;

(B) based on video or telephonic communication between the principal and the remote witness, the remote witness attested that the principal seemed to understand the nature of the document and to be free from duress or undue influence at the time the advance directive was signed; and

(C) the principal included on the advance directive the name and contact information for the remote witness and the nature of the principal's relationship to the remote witness.

(2) An advance directive executed as set forth in subdivision (1) of this subsection shall remain valid unless amended, revoked, or suspended by the principal in accordance with this chapter.

(d)(1) Notwithstanding any provision of subsection 9703(d) or (e) of this title to the contrary, an advance directive executed by a principal between February 15, 2020 and June 30, 2021 while the principal was being admitted to or was a resident of a nursing home or residential care facility or was being admitted to or was a patient in a hospital shall be deemed to be valid even if

the individual who explained the nature and effect of the advance directive to the principal in accordance with subsection 9703(d) or (e) of this title, as applicable, was not physically present in the same location as the principal at the time of the explanation, provided the individual delivering the explanation was communicating with the principal by video or telephone.

(2) An advance directive executed in accordance with this subsection shall remain valid as set forth in subsection (b) or (c) of this section, as applicable.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: June 15, 2020