

1 Introduced by House Committee on Human Services

2 Date:

3 Subject: Health care; advance directives; remote witnesses

4 Statement of purpose of bill as introduced: This bill proposes to allow for
5 remote witnessing of advance directives for a limited period of time in
6 response to the COVID-19 pandemic.

7 An act relating to allowing remote witnesses for advance directives for a
8 limited time

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

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

11 § 9721. ADVANCE DIRECTIVES; COVID-19 STATE OF EMERGENCY;

12 REMOTE WITNESSES AND EXPLAINERS

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

15 (b)(1) Notwithstanding any provision of subsection 9703(b) of this title to
16 the contrary, an advance directive executed by a principal between February
17 15, 2020 and the effective date of this section shall be deemed to be valid even
18 if the principal signed the advance directive outside the physical presence of

1 one or both of the required witnesses, provided the principal includes on the
2 advance directive the name and contact information for each remote witness.

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

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

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

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

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

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

4 (d)(1) Notwithstanding any provision of subsection 9703(d) or (e) of this
5 title to the contrary, an advance directive executed by a principal between
6 February 15, 2020 and June 30, 2021 while the principal was being admitted to
7 or was a resident of a nursing home or residential care facility or was being
8 admitted to or was a patient in a hospital shall be deemed to be valid even if
9 the individual who explained the nature and effect of the advance directive to
10 the principal in accordance with subsection 9703(d) or (e) of this title, as
11 applicable, was not physically present in the same location as the principal at
12 the time of the explanation, provided the individual delivering the explanation
13 was communicating with the principal by video or telephone.

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

17 Sec. 2. EFFECTIVE DATE

18 This act shall take effect on passage.