

1 S.211

2 Introduced by Senator Ayer

3 Referred to Committee on

4 Date:

5 Subject: Health; advance directives; DNR/COLST orders; clinicians; hospitals;
6 nursing homes

7 Statement of purpose of bill as introduced: This bill proposes to identify
8 additional individuals who may explain the nature and purpose of an advance
9 directive to persons who are being admitted to or are residents of a nursing
10 home or residential care facility or who are being admitted to or are patients in
11 a hospital, and it would require nursing homes and residential care facilities to
12 designate individuals for this purpose. The bill would specify that a do-not-
13 resuscitate (DNR) order or clinician order for life-sustaining treatment
14 (COLST) to be used in Vermont may be signed by a licensed clinician
15 practicing in another state if the clinician was treating the patient in the other
16 state at the time the DNR/COLST was issued.

17 An act relating to explanation of advance directives and treating clinicians
18 who may sign a DNR/COLST

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

2 Sec. 1. 18 V.S.A. § 9703 is amended to read:

3 § 9703. FORM AND EXECUTION

4 * * *

5 (b) The advance directive shall be dated, executed by the principal or by
6 another individual in the principal's presence at the principal's express
7 direction if the principal is physically unable to do so, and signed in the
8 presence of two or more witnesses at least 18 years of age, who shall sign and
9 affirm that the principal appeared to understand the nature of the document and
10 to be free from duress or undue influence at the time the advance directive was
11 signed. A health care provider may serve as a witness to the principal's
12 execution of the advance directive under this subsection. If the principal is
13 being admitted to or is a resident of a nursing home or is being admitted to or
14 is a patient in a hospital at the time of execution, the individual who explained
15 the nature and effect of the advance directive to the principal pursuant to
16 subsection (d) or (e) of this section may also serve as one of the witnesses to
17 the principal's execution of the advance directive under this subsection.

18 * * *

19 (d) An advance directive shall not be effective if, at the time of execution,
20 the principal is being admitted to or is a resident of a nursing home as defined
21 in 33 V.S.A. § 7102 or a residential care facility, ~~unless an ombudsman,~~ the

1 State Long-Term Care Ombudsman or a representative of the Ombudsman's
2 Office, as defined in 33 V.S.A. § 7501; a patient representative; a recognized
3 member of the clergy; an attorney licensed to practice in this State; or a
4 Probate Division of the Superior Court designee; or an individual designated
5 under subsection 9709(d) of this title by the nursing home or residential care
6 facility or by a hospital signs a statement affirming that he or she has explained
7 the nature and effect of the advance directive to the principal. It is the intent of
8 this subsection to ensure that residents of nursing homes and residential care
9 facilities are willingly and voluntarily executing 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,~~ the State Long-Term Care Ombudsman or a representative of the
13 Ombudsman's Office, as defined in 33 V.S.A. § 7501; a representative of the
14 Office of the Health Care Advocate; a patient representative; a recognized
15 member of the clergy; an attorney licensed to practice in this State; a Probate
16 Division of the Superior Court designee; or an individual designated under
17 subsection 9709(e) 9709(d) of this title by the hospital signs a statement
18 affirming that he or she has explained the nature and effect of the advance
19 directive to the principal.

20 * * *

1 Sec. 2. 18 V.S.A. § 9708 is amended to read:

2 § 9708. AUTHORITY AND OBLIGATIONS OF HEALTH CARE

3 PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL
4 CARE FACILITIES REGARDING DNR ORDERS AND COLST

5 (a) As used in this section, “clinician” shall have the same meaning as in
6 section 9701 of this title and shall also include a duly licensed medical doctor,
7 osteopathic physician, advanced practice registered nurse or nurse practitioner,
8 or physician assistant who treated the patient outside Vermont and held a valid
9 license to practice in the state in which the patient was located at the time the
10 DNR/COLST was issued.

11 * * *

12 Sec. 3. 18 V.S.A. § 9709(d) is amended to read:

13 (d)(1) Every nursing home and residential care facility shall designate an
14 adequate number of individuals to explain the nature and effect of an advance
15 directive to patients as required by subsection 9703(d) of this title.

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

19 Sec. 4. EFFECTIVE DATE

20 This act shall take effect on passage.