

1 H.208

2 Introduced by Representative Donahue of Northfield

3 Referred to Committee on

4 Date:

5 Subject: Health; health care decisions; DNR/COLST; surrogacy; substitute
6 decision making

7 Statement of purpose of bill as introduced: This bill proposes to establish
8 statutory guidelines for allowing a surrogate decision maker to provide
9 informed consent for a do-not-resuscitate order or a clinician order for
10 life-sustaining treatment on behalf of a patient with no available agent or
11 guardian. The bill would also expressly prohibit any person from taking action
12 on behalf of a patient pursuant to the patient choice at end of life laws.

13 An act relating to surrogate decision making for DNR/COLST

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

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

16 § 9708. DO-NOT-RESUSCITATE ORDERS AND CLINICIAN ORDERS

17 FOR LIFE-SUSTAINING TREATMENT

18 (a) As used in this section:

1 (1) “DNR/COLST” shall mean a do-not-resuscitate order (~~“DNR”~~
2 DNR) and a clinician order for life-sustaining treatment (~~“COLST”~~ COLST) as
3 defined in section 9701 of this title.

4 (2) “Surrogate” means a family member of the patient or a person with a
5 known close relationship to the patient who may give informed consent for a
6 DNR/COLST if the patient does not have an agent or guardian or the patient’s
7 agent or guardian, or both if applicable, is unavailable.

8 (b) A DNR order and a COLST shall be issued on the Department of
9 Health’s “Vermont DNR/COLST form” as designated by rule by the
10 Department of Health.

11 (c) Notwithstanding subsection (b) of this section, health care facilities and
12 residential care facilities may document DNR/COLST orders in the patient’s
13 medical record in a facility-specific manner when the patient is in their care.

14 (d) A DNR order must:

15 (1) be signed by the patient’s clinician;

16 (2) certify that the clinician has consulted, or made an effort to consult,
17 with the patient; and the patient’s agent or guardian, if there is an appointed
18 agent or guardian;

19 (3) include either:

20 (A) the name of the patient; agent; guardian, in accordance with

21 14 V.S.A. § 3075(g); ~~or other individual~~ parent, if the patient is a minor; or

1 surrogate giving informed consent for the DNR and the individual's
2 relationship to the patient; or

3 (B) certification that the patient's clinician and one other named
4 clinician have determined that resuscitation would not prevent the imminent
5 death of the patient, should the patient experience cardiopulmonary arrest; and

6 (4) if the patient is in a health care facility or a residential care facility,
7 certify that the requirements of the facility's DNR protocol required by section
8 9709 of this title have been met.

9 (e) A COLST must:

10 (1) be signed by the patient's clinician; and

11 (2) include the name of the patient; agent; guardian, in accordance with
12 14 V.S.A. § 3075(g); ~~or other individual~~ parent, if the patient is a minor; or
13 surrogate giving informed consent for the COLST and the individual's
14 relationship to the patient.

15 (f) ~~The Department of Health shall adopt by rule on or before July 1, 2016,~~
16 ~~criteria for individuals who are not the patient, agent, or guardian, but who are~~
17 ~~giving informed consent for a DNR/COLST order. The rules shall include the~~
18 ~~following:~~

19 (1) ~~other individuals permitted to give informed consent for a~~
20 ~~DNR/COLST order who shall be a family member of the patient or a person~~
21 ~~with a known close relationship to the patient; and~~

