

# STATE OF NEW YORK

4335

2021-2022 Regular Sessions

## IN SENATE

February 3, 2021

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to providing for the remote conduct of witnessing health care proxies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2981 of the public health law is amended by adding  
2 a new subdivision 2-a to read as follows:

3 2-a. Alternate procedure for witnessing of health care proxies. (a)  
4 Notwithstanding any provision of this section to the contrary, witness-  
5 ing pursuant to this section may be made utilizing audio-video technolo-  
6 gy provided that the following conditions are met:

7 (i) The principal, if not personally known to the witness or  
8 witnesses, shall present valid photo identification to the witness or  
9 witnesses during the audio-video conference;

10 (ii) The audio-video conference shall allow for direct interaction  
11 between the principal and the witness or witnesses;

12 (iii) The witness or witnesses shall receive a legible copy of the  
13 signature page, or pages, which shall be transmitted via fax or elec-  
14 tronic means, within twenty-four hours of such pages being signed by the  
15 principal during the audio-video conference; and

16 (iv) The witness or witnesses shall sign the transmitted copy of the  
17 signature page, or pages, and transmit the same back to the principal.

18 (b) Notwithstanding any provision of this section to the contrary, if  
19 a principal utilizes audio-video technology to appoint a health care  
20 agent by a health care proxy pursuant to this subdivision, such appoint-  
21 ment shall only require one adult witness; provided however, a principal  
22 who resides in a facility operated or licensed by the office of mental  
23 health or the office for people with developmental disabilities, shall  
24 be required to have two adult witnesses in order to appoint a health  
25 care agent by a health care proxy utilizing audio-video technology.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1     (c) A witness may repeat the witnessing of the original signature  
2     page, or pages, as of the date of execution provided that the witness  
3     receives such original signature page, or pages, together with the elec-  
4     tronically witnessed copy, witnessed pursuant to the provisions of para-  
5     graph (a) of this subdivision, within thirty days after the date of  
6     execution.

7     (d) Principals who do not have access to technology which enables them  
8     to accomplish video conference witnessing may utilize communication via  
9     telephone to accomplish witnessing, provided that two witnesses shall be  
10    required. Such communication from the principal to both witnesses need  
11    not be simultaneous. Such witnesses' contact information shall be  
12    provided in the document. Such witnesses shall receive the signature  
13    page, or pages, or a legible copy of such page or pages, which shall be  
14    sent via mail, fax or electronic means, and such witnesses shall sign  
15    the page, or pages, or a legible copy of such page or pages and send the  
16    same back to the principal.

17     § 2. This act shall take effect immediately.