

CHAPTER 1132**LIFE-SUSTAINING PROCEDURES***H.F. 2207*

AN ACT conforming provisions of the life-sustaining procedures Act to the durable power of attorney for health care law and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 144A.2, subsection 4, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Health care provider" means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

Sec. 2. Section 144A.2, subsection 5, Code 1991, is amended to read as follows:

5. "Life-sustaining procedure" means any medical procedure, treatment or intervention which meets both of the following requirements:

a. Utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function.

b. When applied to a patient in a terminal condition, would serve only to prolong the dying process.

"Life-sustaining procedure" does not include the provision of sustenance nutrition or hydration except when required to be provided parenterally or through intubation or the administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

Sec. 3. Section 144A.2, subsection 8, Code 1991, is amended to read as follows:

8. "Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery.

Sec. 4. Section 144A.3, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

144A.3 DECLARATION RELATING TO USE OF LIFE-SUSTAINING PROCEDURES.

1. A competent adult may execute a declaration at any time directing that life-sustaining procedures be withheld or withdrawn. The declaration shall be given operative effect only if the declarant's condition is determined to be terminal and the declarant is not able to make treatment decisions.

2. The declaration must be signed by the declarant or another person acting on behalf of the declarant at the direction of the declarant, must contain the date of its execution, and must be witnessed or acknowledged by one of the following methods:

a. Is signed by at least two individuals who, in the presence of each other and the declarant, witnessed the signing of the declaration by the declarant or by another person acting on behalf of the declarant at the declarant's direction. At least one of the witnesses shall be an individual who is not a relative of the declarant by blood, marriage, or adoption within the third degree of consanguinity. The following individuals shall not be witnesses for a declaration:

(1) A health care provider attending the declarant on the date of execution.

(2) An employee of a health care provider attending the declarant on the date of execution.

(3) An individual who is less than eighteen years of age.

b. Is acknowledged before a notarial officer within this state.

3. It is the responsibility of the declarant to provide the declarant's attending physician or health care provider with the declaration. An attending physician or health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter and is valid.

4. A declaration or similar document executed in another state or jurisdiction in compliance with the law of that state or jurisdiction shall be deemed valid and enforceable in this state, to the extent the declaration or similar document is consistent with the laws of this state.

5. A declaration executed pursuant to this chapter may, but need not, be in the following form:

DECLARATION

If I should have an incurable or irreversible condition that will result either in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that my life not be prolonged by the administration of life-sustaining procedures. If I am unable to participate in my health care decisions, I direct my attending physician to withhold or withdraw life-sustaining procedures that merely prolong the dying process and are not necessary to my comfort or freedom from pain.

Sec. 5. NEW SECTION. 144A.12 APPLICATION TO EXISTING DECLARATIONS.

A declaration executed prior to the effective date of this Act shall remain valid and shall be given effect in accordance with the then-applicable provisions of this chapter. If a declaration executed prior to the effective date of this Act includes a provision which would not have been given effect under this chapter prior to the effective date of this Act but which would be given effect under this Act, then the provision shall be given effect in accordance with this Act.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 23, 1992

CHAPTER 1133

ENDANGERED SPECIES

H.F. 2274

AN ACT relating to the protection of endangered species by the department of natural resources.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 109A.5, unnumbered paragraph 1 and subsections 2, 3, and 4, Code 1991, are amended to read as follows:

Except as otherwise provided in this chapter or by rule, a person shall not take, possess, transport, import, export, process, sell or offer for sale, buy or offer to buy, nor shall a common or contract carrier transport or receive for shipment, any species of fish, plants, or wildlife appearing on the following lists which shall be adopted by rule of the commission:

2. The United States list of endangered or threatened native fish and wildlife as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, ~~1974~~ 1991.

3. The United States list of endangered or threatened plants as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, ~~1974~~ 1991.

4. The United States list of endangered or threatened foreign fish and wildlife as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, ~~1974~~ 1991.

Sec. 2. Section 109A.5, subsection 5, Code 1991, is amended by striking the subsection.

Sec. 3. Section 109A.9, Code 1991, is amended by striking the section and inserting in lieu thereof the following: