

## CHAPTER 144A

## LIFE-SUSTAINING PROCEDURES

Referred to in §142C.12B, 144B.6, 144D.4, 235B.2, 235E.1, 633.635, 707A.3

[P]

Policy statement; see 85 Acts, ch 3, §1  
See also chapter 144B concerning durable power of  
attorney for health care

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**144A.1 Short title.**

This chapter may be cited as the “*Life-sustaining Procedures Act*”.  
85 Acts, ch 3, §2

**144A.2 Definitions.**

Except as otherwise provided, as used in this chapter:

1. “*Adult*” means an individual eighteen years of age or older.
2. “*Attending physician*” means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.
3. “*Declaration*” means a document executed in accordance with the requirements of section 144A.3.
4. “*Department*” means the Iowa department of public health.
5. “*Emergency medical care provider*” means emergency medical care provider as defined in section 147A.1.
6. “*Health care provider*” means a person, including an emergency medical care provider, 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.
7. “*Hospital*” means hospital as defined in section 135B.1.
8. a. “*Life-sustaining procedure*” means any medical procedure, treatment, or intervention, including resuscitation, which meets both of the following requirements:
  - (1) Utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function.
  - (2) When applied to a patient in a terminal condition, would serve only to prolong the dying process.
- b. “*Life-sustaining procedure*” does not include the provision of 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.
9. “*Out-of-hospital do-not-resuscitate order*” means a written order signed by a physician, executed in accordance with the requirements of section 144A.7A and issued consistent with this chapter, that directs the withholding or withdrawal of resuscitation when an adult patient in a terminal condition is outside the hospital.
10. “*Physician*” means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.
11. “*Qualified patient*” means a patient who has executed a declaration or an out-of-hospital do-not-resuscitate order in accordance with this chapter and who has been determined by the attending physician to be in a terminal condition.
12. “*Resuscitation*” means any medical intervention that utilizes mechanical or artificial

means to sustain, restore, or supplant a spontaneous vital function, including but not limited to chest compression, defibrillation, intubation, and emergency drugs intended to alter cardiac function or otherwise to sustain life.

13. “*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.

85 Acts, ch 3, §3; 92 Acts, ch 1132, §1 – 3; 2002 Acts, ch 1061, §1; 2008 Acts, ch 1088, §141; 2013 Acts, ch 30, §37

Referred to in §144C.2, 144D.4  
[T] Subsection 8 amended

### **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 the declaration’s 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 of the declaration.

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

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

b. Is acknowledged before a notarial officer within this state as provided in chapter 9B.

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. A declaration or similar document executed by a veteran of the armed forces which is in compliance with the federal department of veterans affairs advance directive requirements shall be deemed valid and enforceable.

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.

85 Acts, ch 3, §4; 92 Acts, ch 1132, §4; 98 Acts, ch 1083, §1; 2002 Acts, ch 1061, §2, 3; 2012 Acts, ch 1050, §37, 60

Referred to in §144A.2, 144A.11

#### **144A.4 Revocation of declaration.**

1. A declaration may be revoked at any time and in any manner by which the declarant is able to communicate the declarant's intent to revoke, without regard to mental or physical condition. A revocation is only effective as to the attending physician upon communication to such physician by the declarant or by another to whom the revocation was communicated.

2. The attending physician shall make the revocation a part of the declarant's medical record.

85 Acts, ch 3, §5

Referred to in §144A.10

#### **144A.5 Determination of terminal condition.**

When an attending physician who has been provided with a declaration determines that the declarant is in a terminal condition, this decision must be confirmed by another physician. The attending physician must record that determination in the declarant's medical record.

85 Acts, ch 3, §6

Referred to in §144A.8

#### **144A.6 Treatment of qualified patients.**

1. A qualified patient has the right to make decisions regarding use of life-sustaining procedures as long as the qualified patient is able to do so. If a qualified patient is not able to make such decisions, the declaration shall govern decisions regarding use of life-sustaining procedures.

2. The declaration of a qualified patient known to the attending physician to be pregnant shall not be in effect as long as the fetus could develop to the point of live birth with continued application of life-sustaining procedures. However, the provisions of this subsection do not impair any existing rights or responsibilities that any person may have in regard to the withholding or withdrawal of life-sustaining procedures.

85 Acts, ch 3, §7

Referred to in §144A.8

#### **144A.7 Procedure in absence of declaration.**

1. Life-sustaining procedures may be withheld or withdrawn from a patient who is in a terminal condition and who is comatose, incompetent, or otherwise physically or mentally incapable of communication and has not made a declaration in accordance with this chapter if there is consultation and written agreement for the withholding or the withdrawal of life-sustaining procedures between the attending physician and any of the following individuals, who shall be guided by the express or implied intentions of the patient, in the following order of priority if no individual in a prior class is reasonably available, willing, and competent to act:

a. The attorney in fact designated to make treatment decisions for the patient should such person be diagnosed as suffering from a terminal condition, if the designation is in writing and complies with chapter 144B or section 633B.1.

b. The guardian of the person of the patient if one has been appointed, provided court approval is obtained in accordance with section 633.635, subsection 2, paragraph "c". This paragraph does not require the appointment of a guardian in order for a treatment decision to be made under this section.

c. The patient's spouse.

d. An adult child of the patient or, if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation.

e. A parent of the patient, or parents if both are reasonably available.

f. An adult sibling.

2. When a decision is made pursuant to this section to withhold or withdraw life-sustaining procedures, there shall be a witness present at the time of the consultation when that decision is made.

3. Subsections 1 and 2 shall not be in effect for a patient who is known to the attending physician to be pregnant with a fetus that could develop to the point of live birth with continued application of life-sustaining procedures. However, the provisions of this subsection do not impair any existing rights or responsibilities that any person may have in regard to the withholding or withdrawal of life-sustaining procedures.

85 Acts, ch 3, §8; 87 Acts, ch 100, §1; 2002 Acts, ch 1061, §4; 2005 Acts, ch 38, §55

Referred to in §144A.8, 144D.1, 144D.4

#### **144A.7A Out-of-hospital do-not-resuscitate orders.**

1. If an attending physician issues an out-of-hospital do-not-resuscitate order for an adult patient under this section, the physician shall use the form prescribed pursuant to subsection 2, include a copy of the order in the patient's medical record, and provide a copy to the patient or an individual authorized to act on the patient's behalf.

2. The department, in collaboration with interested parties, shall prescribe uniform out-of-hospital do-not-resuscitate order forms and uniform personal identifiers, and shall adopt administrative rules necessary to implement this section. The uniform forms and personal identifiers shall be used statewide.

3. The out-of-hospital do-not-resuscitate order form shall include all of the following:

a. The patient's name.

b. The patient's date of birth.

c. The name of the individual authorized to act on the patient's behalf, if applicable.

d. A statement that the patient is in a terminal condition.

e. The physician's signature.

f. The date the form is signed.

g. A concise statement of the nature and scope of the order.

h. Any other information necessary to provide clear and reliable instructions to a health care provider.

4. A health care provider may withhold or withdraw resuscitation outside a hospital consistent with an out-of-hospital do-not-resuscitate order issued under this section and the rules or protocols adopted by the department.

5. In fulfilling the instructions of an out-of-hospital do-not-resuscitate order under this chapter, a health care provider shall continue to provide appropriate comfort care and pain relief to the patient.

6. An out-of-hospital do-not-resuscitate order shall not apply when a patient is in need of emergency medical services due to a sudden accident or injury resulting from a motor vehicle collision, fire, mass casualty, or other cause of a sudden accident or injury which is outside the scope of the patient's terminal condition.

7. An out-of-hospital do-not-resuscitate order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as designated on the out-of-hospital do-not-resuscitate order, is able to communicate in any manner the intent that the order be revoked, without regard to the mental or physical condition of the patient. A revocation is only effective as to the health care provider upon communication to that provider by the patient, an individual authorized to act on the patient's behalf as designated in the order, or by another person to whom the revocation is communicated.

8. The personal wishes of family members or other individuals who are not authorized in the order to act on the patient's behalf shall not supersede a valid out-of-hospital do-not-resuscitate order.

9. If uncertainty regarding the validity or applicability of an out-of-hospital do-not-resuscitate order exists, a health care provider shall provide necessary and appropriate resuscitation.

10. A health care provider shall document compliance or noncompliance with an out-of-hospital do-not-resuscitate order and the reasons for not complying with the order,

including evidence that the order was revoked or uncertainty regarding the validity or applicability of the order.

11. This section shall not preclude a hospital licensed under chapter 135B from honoring an out-of-hospital do-not-resuscitate order entered in accordance with this section and in compliance with established hospital policies and protocols.

2002 Acts, ch 1061, §5

Referred to in §144A.2, 144A.8, 144A.10, 144A.11, 144D.4

[SP] Applicability to and validity of orders executed prior to July 1, 2002; 2002 Acts, ch 1061, §11

#### **144A.8 Transfer of patients.**

1. An attending physician who is unwilling to comply with the requirements of section 144A.5, or who is unwilling to comply with the declaration of a qualified patient in accordance with section 144A.6 or an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A, or who is unwilling to comply with the provisions of section 144A.7 or 144A.7A shall take all reasonable steps to effect the transfer of the patient to another physician.

2. If the policies of a health care provider preclude compliance with the declaration or out-of-hospital do-not-resuscitate order of a qualified patient under this chapter or preclude compliance with the provisions of section 144A.7 or 144A.7A, the provider shall take all reasonable steps to effect the transfer of the patient to a facility in which the provisions of this chapter can be carried out.

85 Acts, ch 3, §9; 2002 Acts, ch 1061, §6

#### **144A.9 Immunities.**

1. In the absence of actual notice of the revocation of a declaration or of an out-of-hospital do-not-resuscitate order, the following, while acting in accordance with the requirements of this chapter, are not subject to civil or criminal liability or guilty of unprofessional conduct:

a. A physician who causes the withholding or withdrawal of life-sustaining procedures from a qualified patient.

b. The health care provider in which such withholding or withdrawal occurs.

c. A person who participates in the withholding or withdrawal of life-sustaining procedures under the direction of or with the authorization of a physician.

2. A physician is not subject to civil or criminal liability for actions under this chapter which are in accord with reasonable medical standards.

3. Any person, institution or facility against whom criminal or civil liability is asserted because of conduct in compliance with this chapter may interpose this chapter as an absolute defense.

4. In the absence of actual notice of the revocation of an out-of-hospital do-not-resuscitate order, a health care provider who complies with this chapter is not subject to civil or criminal liability or guilty of unprofessional conduct in entering, executing, or otherwise participating in an out-of-hospital do-not-resuscitate order.

85 Acts, ch 3, §10; 2002 Acts, ch 1061, §7, 8

#### **144A.10 Penalties.**

1. Any person who willfully conceals, withholds, cancels, destroys, alters, defaces, or obliterates the declaration, out-of-hospital do-not-resuscitate order, or out-of-hospital do-not-resuscitate identifier of another without the declarant's or patient's consent or who falsifies or forges a revocation of the declaration or out-of-hospital do-not-resuscitate order of another is guilty of a serious misdemeanor.

2. Any person who falsifies or forges the declaration or out-of-hospital do-not-resuscitate order of another, or willfully conceals or withholds personal knowledge of or delivery of a revocation as provided in section 144A.4 or 144A.7A, with the intent to cause a withholding or withdrawal of life-sustaining procedures, is guilty of a serious misdemeanor.

85 Acts, ch 3, §11; 2002 Acts, ch 1061, §9

#### **144A.11 General provisions.**

1. Death resulting from the withholding or withdrawal of life-sustaining procedures

pursuant to a declaration or out-of-hospital do-not-resuscitate order and in accordance with this chapter does not, for any purpose, constitute a suicide, homicide, or dependent adult abuse.

2. The executing of a declaration pursuant to section 144A.3 or an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance is legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures pursuant to this chapter, notwithstanding any term of the policy to the contrary.

3. A physician, health care provider, health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require any person to execute a declaration or an out-of-hospital do-not-resuscitate order as a condition for being insured for, or receiving, health care services.

4. This chapter creates no presumption concerning the intention of an individual who has not executed a declaration or an out-of-hospital do-not-resuscitate order with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition.

5. This chapter shall not be interpreted to increase or decrease the right of a patient to make decisions regarding use of life-sustaining procedures as long as the patient is able to do so, nor to impair or supersede any right or responsibility that any person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of this chapter are cumulative.

6. This chapter shall not be construed to condone, authorize or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

85 Acts, ch 3, §12; 2002 Acts, ch 1061, §10

[P] Adult abuse, chapter 235B

[P] Homicide, chapter 707

#### **144A.12 Application to existing declarations.**

A declaration executed prior to April 23, 1992, shall remain valid and shall be given effect in accordance with the then-applicable provisions of this chapter. If a declaration executed prior to April 23, 1992, includes a provision which would not have been given effect under this chapter prior to April 23, 1992, but which would be given effect under 1992 Acts, chapter 1132, then the provision shall be given effect in accordance with 1992 Acts, chapter 1132.

92 Acts, ch 1132, §5