

House File 2305

S-5140

1 Amend House File 2305, as amended, passed, and reprinted by
2 the House, as follows:

3 1. By striking everything after the enacting clause and
4 inserting:

5 <Section 1. Section 135J.1, Code 2026, is amended to read
6 as follows:

7 **135J.1 Definitions.**

8 For the purposes of **this chapter** unless otherwise defined:

9 1. "Attending physician provider" means a physician licensed
10 pursuant to ~~chapter 148~~ or a physician assistant licensed
11 pursuant to ~~chapter 148C~~, physician assistant, or an advanced
12 registered nurse practitioner who is licensed in this state.

13 2. "Attorney in fact" means the same as defined in section
14 144B.1.

15 ~~2.~~ 3. "Core services" means physician services, nursing
16 services, medical social services, counseling services,
17 and ~~volunteer~~ services provided by volunteers. These core
18 services, as well as others deemed necessary by the hospice
19 in delivering safe and appropriate care to ~~its case load~~ the
20 hospice's hospice patients, can be provided through either
21 direct or indirect arrangement by the hospice.

22 ~~3.~~ 4. "Department" means the department of inspections,
23 appeals, and licensing.

24 5. "Guardian" means the same as defined in section 633.3.

25 ~~4.~~ 6. "Hospice patient" or "patient" means a diagnosed
26 ~~terminally ill person~~ an individual with an anticipated life
27 expectancy of six months or less, as certified by the attending
28 physician provider, who, ~~alone or in conjunction with a unit~~
29 ~~of care as defined in subsection 9,~~ has voluntarily requested
30 and received admission into the a hospice program. If the
31 patient is unable to request admission, a family member the
32 may voluntarily request and receive admission on the patient's
33 behalf. An individual may make this request in conjunction
34 with a unit of care, the individual's attorney in fact,
35 the individual's guardian, or the majority of the guardians

1 if the individual has more than one guardian with equal
2 responsibilities appointed.

3 ~~5-~~ 7. "*Hospice patient's family*" means the immediate kin of
4 ~~the~~ a hospice patient, including a spouse, parent, stepparent,
5 brother, sister, stepbrother, stepsister, child, or stepchild.
6 Additional relatives or individuals with significant personal
7 ties to the hospice patient may be included in the hospice
8 patient's family.

9 ~~6-~~ 8. "*Hospice program*" means a centrally coordinated
10 program of home and inpatient care provided directly or through
11 an agreement under the direction of an identifiable hospice
12 administration providing ~~palliative care~~ directed at symptom
13 management and supportive medical and other health services
14 to ~~terminally ill~~ hospice patients and their families. A
15 licensed hospice program shall utilize a medically directed
16 interdisciplinary team and provide care to meet the physical,
17 emotional, social, spiritual, and other special needs which
18 are experienced during the final stages of illness, dying, and
19 bereavement. Hospice care shall be available twenty-four hours
20 a day, seven days a week.

21 ~~7-~~ 9. "*Interdisciplinary team*" means the hospice patient
22 and the hospice patient's family, the attending ~~physician~~
23 provider, and all of the following individuals trained to serve
24 with a licensed hospice program:

- 25 a. A licensed physician pursuant to [chapter 148](#).
- 26 b. A licensed registered nurse pursuant to [chapter 152](#).
- 27 c. An individual with at least a baccalaureate degree in the
28 field of social work providing medical-social services.
- 29 d. ~~Trained hospice volunteers~~ Volunteers.
- 30 e. As deemed appropriate by the hospice, physician
31 assistants, providers of special services including but not
32 limited to a spiritual counselor, ~~a pharmacist~~ pharmacists, or
33 professionals in the fields of mental health may be included
34 on the interdisciplinary team.

35 ~~8-~~ 10. "*Palliative care*" means specialized medical care

1 ~~directed at managing symptoms experienced by the hospice~~
2 ~~provided to a patient, as well as addressing related needs~~
3 ~~of the patient and family as they experience the stress of~~
4 ~~the dying process~~ who has been diagnosed by the patient's
5 attending provider with a serious illness. Palliative care is
6 stress and symptom management care, based on the needs of the
7 patient rather than the patient's diagnosis, provided by an
8 interdisciplinary team. The intent of palliative care is to
9 enhance the quality of life for the hospice patient and family
10 unit, ~~and is not treatment directed at cure of the terminal~~
11 ~~illness.~~ Palliative care may be provided at any stage of a
12 patient's serious illness, regardless of the patient's age, and
13 may be provided in conjunction with curative treatment for the
14 serious illness.

15 11. "Serious illness" means a health condition that
16 carries a high risk of mortality and either negatively impacts
17 an individual's daily functioning or quality of life, or
18 excessively strains the individual's caregivers.

19 12. "Terminal condition" means the same as defined in
20 section 144A.2.

21 ~~9.~~ 13. "Unit of care" means the a hospice patient and the a
22 hospice patient's family within a hospice program.

23 ~~10.~~ 14. "Volunteer services" "Volunteer" means the services
24 provided by individuals an individual who have has successfully
25 completed a training program developed by a licensed hospice
26 program and who provides services.

27 Sec. 2. Section 135J.3, Code 2026, is amended to read as
28 follows:

29 **135J.3 Basic requirements.**

30 A licensed hospice program shall include:

31 1. A planned program of hospice care, the medical components
32 of which shall be under the direction of an attending ~~physician~~
33 provider.

34 2. Centrally administered, coordinated hospice core
35 services provided in home, outpatient, or institutional

1 settings.

2 3. A mechanism that assures the rights of ~~the patient and~~
3 family a unit of care.

4 4. ~~Palliative care~~ Symptom management provided to a hospice
5 ~~patient and family~~ unit of care under the direction of an
6 attending physician provider.

7 5. An interdisciplinary team which develops, implements,
8 and evaluates the hospice plan of care for ~~the patient and~~
9 family a unit of care.

10 6. Bereavement services.

11 7. Accessible hospice care twenty-four hours a day, seven
12 days a week in all settings.

13 8. An ongoing system of quality assurance and utilization
14 review.

15 Sec. 3. NEW SECTION. 135J.3A **Patient incapable of making a**
16 **treatment decision.**

17 1. a. A request for admission and placement in a hospice
18 program for a patient who has a terminal condition, and
19 who is comatose, incompetent, or otherwise physically or
20 mentally incapable of communication, and who has not expressed
21 their desire for palliative care or a hospice program, may
22 be made by the patient's attorney in fact or the patient's
23 guardian. If the patient has more than one guardian with
24 equal responsibilities appointed, the decision agreed to by a
25 majority of guardians. If a majority consensus is not achieved
26 by the guardians, a court order shall be required.

27 b. If a patient does not have an attorney in fact or a
28 guardian, the request may be made by an individual, in the same
29 order of priority prescribed in section 144A.7, subsection 1,
30 paragraph "b", who shall be guided by the express or implied
31 intentions of the patient and who is reasonably available,
32 willing, and competent to make a request.

33 2. This section shall not apply to a guardian appointed
34 under chapter 232D.

35 Sec. 4. Section 144A.2, Code 2026, is amended to read as

1 follows:

2 **144A.2 Definitions.**

3 Except as otherwise provided, as used in [this chapter](#):

4 1. *“Adult”* means an individual eighteen years of age or
5 older.

6 2. *“Advanced registered nurse practitioner”* means the same as
7 defined in section 152.1.

8 ~~2. 3. *“Attending physician provider”* means the physician~~
9 ~~selected by, or assigned to, the patient who has primary~~
10 ~~responsibility for the treatment and care of the patient same~~
11 ~~as defined in section 135J.1.~~

12 ~~3. 4. *“Attending physician assistant”* means the physician~~
13 ~~assistant selected by, or assigned to, the patient who has~~
14 ~~primary responsibility for the treatment and care of the~~
15 ~~patient “Attorney in fact” means the same as defined in section~~
16 ~~144B.1.~~

17 5. *“Close adult friend”* means a friend of a patient to whom
18 all of the following apply:

19 a. The individual is at least eighteen years of age.

20 b. The individual has shown special care and concern for the
21 patient.

22 c. The individual maintains regular contact with the patient
23 and is familiar with the patient’s health, activities, and
24 beliefs.

25 d. The individual has provided an affidavit to the patient’s
26 attending provider that states that the individual is willing
27 and able to be involved in the patient’s care.

28 ~~4. 6. *“Declaration”* means a document executed in accordance~~
29 ~~with the requirements of [section 144A.3](#).~~

30 ~~5. 7. *“Department”* means the department of health and human~~
31 ~~services.~~

32 ~~6. 8. *“Emergency medical care provider”* means emergency~~
33 ~~medical care provider as defined in [section 147A.1](#).~~

34 ~~7. 9. *“Health care provider”* means a person, including an~~
35 ~~emergency medical care provider, who is licensed, certified, or~~

1 otherwise authorized or permitted by the law of this state to
2 administer health care in the ordinary course of business or in
3 the practice of a profession.

4 ~~8.~~ 10. "*Hospital*" means hospital as defined in section
5 135B.1.

6 ~~9.~~ 11. *a.* "*Life-sustaining procedure*" means any medical
7 procedure, treatment, or intervention, including resuscitation,
8 which meets both of the following requirements:

9 (1) Utilizes mechanical or artificial means to sustain,
10 restore, or supplant a spontaneous vital function.

11 (2) When applied to a patient in a terminal condition, would
12 serve only to prolong the dying process.

13 *b.* "*Life-sustaining procedure*" does not include the
14 provision of nutrition or hydration except when required
15 to be provided parenterally or through intubation, or the
16 administration of medication or performance of any medical
17 procedure deemed necessary to provide comfort care or to
18 alleviate pain.

19 ~~10.~~ 12. "*Out-of-hospital do-not-resuscitate order*" means
20 a written order signed by a ~~physician~~ an attending provider,
21 executed in accordance with the requirements of section
22 144A.7A and issued consistent with [this chapter](#), that directs
23 the withholding or withdrawal of resuscitation when an adult
24 patient in a terminal condition is outside the hospital.

25 ~~11.~~ 13. "*Physician*" means a person licensed to practice
26 medicine and surgery or osteopathic medicine and surgery in
27 this state.

28 ~~12.~~ 14. "*Physician assistant*" means a person licensed to
29 practice as a physician assistant in this state.

30 ~~13.~~ 15. "*Qualified patient*" means a patient who has
31 executed a declaration or an out-of-hospital do-not-resuscitate
32 order in accordance with [this chapter](#) and who has been
33 determined by the patient's attending ~~physician~~ provider to be
34 in a terminal condition.

35 ~~14.~~ 16. "*Resuscitation*" means any medical intervention that

1 utilizes mechanical or artificial means to sustain, restore,
2 or supplant a spontaneous vital function, including but not
3 limited to chest compression, defibrillation, intubation, and
4 emergency drugs intended to alter cardiac function or otherwise
5 to sustain life.

6 ~~15.~~ 17. "*Terminal condition*" means an incurable or
7 irreversible condition that, without the administration
8 of life-sustaining procedures, will, in the opinion of
9 the attending ~~physician~~ provider, result in death within
10 a relatively short period of time or a state of permanent
11 unconsciousness from which, to a reasonable degree of medical
12 certainty, there can be no recovery.

13 Sec. 5. Section 144A.3, subsections 3 and 5, Code 2026, are
14 amended to read as follows:

15 3. It is the responsibility of the declarant to provide
16 the declarant's attending ~~physician or health care~~ provider
17 with the declaration. An attending ~~physician or health care~~
18 provider may presume, in the absence of actual notice to the
19 contrary, that the declaration complies with [this chapter](#) and
20 is valid.

21 5. A declaration executed pursuant to [this chapter](#) may, but
22 need not, be in the following form:

23 DECLARATION

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

35 Sec. 6. Section 144A.4, Code 2026, is amended to read as

1 follows:

2 **144A.4 Revocation of declaration.**

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

11 2. The attending ~~physician or attending physician assistant~~
12 provider shall make the revocation a part of the declarant's
13 medical record.

14 Sec. 7. Section 144A.5, Code 2026, is amended to read as
15 follows:

16 **144A.5 Determination of terminal condition.**

17 When an attending ~~physician~~ provider who has been provided
18 with a declaration determines that the declarant is in a
19 terminal condition, this decision must be confirmed by another
20 physician, advanced registered nurse practitioner, or physician
21 assistant. The attending ~~physician~~ provider must record ~~that~~
22 the determination in the declarant's medical record.

23 Sec. 8. Section 144A.6, subsection 2, Code 2026, is amended
24 to read as follows:

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

33 Sec. 9. Section 144A.7, subsections 1 and 2, Code 2026, are
34 amended to read as follows:

35 1. a. Life-sustaining procedures may be withheld or

1 withdrawn from a patient who is in a terminal condition and who
2 is comatose, incompetent, or otherwise physically or mentally
3 incapable of communication, and who has not made a declaration
4 in accordance with ~~this chapter~~ section 144A.3 if there is
5 consultation and written agreement for the withholding or the
6 withdrawal of life-sustaining procedures between the attending
7 physician provider, another physician, advanced registered
8 nurse practitioner, or physician assistant, and the patient's
9 attorney in fact, the patient's guardian appointed pursuant to
10 chapter 633, or the patient's guardian who has obtained court
11 approval in accordance with section 232D.401, subsection 4,
12 paragraph "a". If the patient has more than one guardian with
13 equal responsibilities appointed, the decision agreed to by
14 a majority of the guardians. If a majority consensus is not
15 achieved by the guardians, a court order shall be required.

16 b. If a patient does not have an attorney in fact, a
17 guardian appointed pursuant to chapter 633, or a guardian
18 who has obtained court approval in accordance with section
19 232D.401, subsection 4, paragraph "a", the decision may be
20 made by any of the following individuals, who shall be guided
21 by the express or implied intentions of the patient, in the
22 following order of priority if no individual in a ~~prior class~~
23 the previous priority is reasonably available, willing, and
24 competent to ~~act~~ make the decision:

25 a. (1) The patient's spouse.

26 b. (2) An adult child of the patient or, if the patient
27 has more than one adult child, the decision agreed to by a
28 majority of the adult children who are reasonably available for
29 consultation with the patient's attending provider.

30 c. (3) A parent of the patient, or ~~parents~~ if both the
31 patient has more than one parent, the decision agreed to by
32 both parents if both are reasonably available for consultation
33 with the patient's attending provider.

34 d. (4) An adult sibling of the patient or, if the patient
35 has more than one adult sibling, the decision agreed to by a

1 majority of the adult siblings who are reasonably available for
2 consultation with the patient's attending provider.

3 (5) The decision agreed to by a majority of the patient's
4 adult relatives, including but not limited to grandchildren,
5 grandparents, aunts, uncles, nieces, nephews, stepchildren,
6 stepparents, and stepsiblings who are reasonably available for
7 consultation with the patient's attending provider.

8 (6) A close adult friend.

9 2. When a decision is made pursuant to **this section** to
10 withhold or withdraw life-sustaining procedures, there shall
11 be a witness present at the time of the consultation with the
12 patient's attending provider when ~~that~~ the decision is made.

13 Sec. 10. Section 144A.7A, subsections 1 and 3, Code 2026,
14 are amended to read as follows:

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

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

24 a. The patient's name.

25 b. The patient's date of birth.

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

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

29 e. The ~~physician's or physician assistant's~~ attending
30 provider's signature.

31 f. The date the form is signed.

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

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

35 Sec. 11. NEW SECTION. **144A.7B Procedure in absence of**

1 **out-of-hospital do-not-resuscitate order.**

2 1. *a.* Resuscitation may be withheld or withdrawn from a
3 patient who has a terminal condition, and who is comatose,
4 incompetent, or otherwise physically or mentally incapable of
5 communication, and who has not executed an out-of-hospital
6 do-not-resuscitate order, if there is consultation and
7 written agreement for the withholding or the withdrawal of
8 resuscitation between the attending provider and another
9 physician, advanced registered nurse practitioner, or physician
10 assistant, and the patient's attorney in fact, the patient's
11 guardian appointed pursuant to chapter 633, or the patient's
12 guardian who has obtained court approval in accordance
13 with section 232D.401, subsection 4, paragraph "a". If the
14 patient has more than one guardian appointed with equal
15 responsibilities, the decision agreed to by a majority of the
16 guardians. If a majority consensus is not achieved by the
17 guardians, a court order shall be required.

18 *b.* If a patient does not have an attorney in fact, a
19 guardian appointed pursuant to chapter 633, or a guardian
20 who has obtained a court approval in accordance with section
21 232D.401, subsection 4, paragraph "a", the decision may be made
22 by an individual, in the same order of priority prescribed in
23 section 144A.7, subsection 1, paragraph "b", who shall be guided
24 by the express or implied intentions of the patient and who
25 is reasonably available, willing, and competent to make the
26 decision.

27 2. When a decision is made pursuant to this section to
28 withhold or withdraw resuscitation, a witness shall be present
29 at the time of the consultation with the patient's attending
30 provider when the decision is made.

31 3. This section shall only apply to a patient located in a
32 health care facility as that term is defined in section 135C.1,
33 or a health facility as that term is defined in section 135P.1.

34 Sec. 12. Section 144A.8, subsection 1, Code 2026, is amended
35 to read as follows:

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

9 Sec. 13. Section 144B.1, Code 2026, is amended to read as
10 follows:

11 **144B.1 Definitions.**

12 For purposes of [this chapter](#), unless the context otherwise
13 requires:

14 1. "Attending provider" means the same as defined in section
15 135J.1.

16 ~~1.~~ 2. "Attorney in fact" means an individual who is
17 designated by a durable power of attorney for health care as an
18 agent to make health care decisions on behalf of a principal
19 and has consented to act in that capacity.

20 ~~2.~~ 3. "Designee" means a person named in a declaration
21 under [chapter 144C](#).

22 ~~3.~~ 4. "Durable power of attorney for health care" means a
23 document authorizing an attorney in fact to make health care
24 decisions for the principal if the principal is unable, in the
25 judgment of the attending ~~physician~~ or ~~attending physician~~
26 assistant provider, to make health care decisions.

27 ~~4.~~ 5. "Health care" means any care, treatment, service,
28 or procedure to maintain, diagnose, or treat an individual's
29 physical or mental condition. "Health care" does not include
30 the provision of nutrition or hydration except when they are
31 required to be provided parenterally or through intubation.

32 ~~5.~~ 6. "Health care decision" means the consent, refusal of
33 consent, or withdrawal of consent to health care.

34 ~~6.~~ 7. "Health care provider" means a person who is
35 licensed, certified, or otherwise authorized or permitted by

1 the ~~law~~ laws of this state to administer health care in the
2 ordinary course of business or in the practice of a profession.

3 ~~7.~~ 8. "*Principal*" means a person age eighteen or older who
4 has executed a durable power of attorney for health care.

5 Sec. 14. Section 144B.5, subsection 1, Code 2026, is amended
6 to read as follows:

7 1. A durable power of attorney for health care executed
8 pursuant to this chapter may, but need not, be in the following
9 form:

10 I hereby designate as my attorney in fact (my
11 agent) and give to my agent the power to make health care
12 decisions for me. This power exists only when I am unable, in
13 the judgment of my attending ~~physician or attending physician~~
14 ~~assistant~~ provider, to make those health care decisions. The
15 attorney in fact must act consistently with my desires as
16 stated in this document or otherwise made known.

17 Except as otherwise specified in this document, this document
18 gives my agent the power, where otherwise consistent with the
19 law laws of this state, to consent to my ~~physician or physician~~
20 ~~assistant~~ attending provider not giving health care or stopping
21 health care which is necessary to keep me alive.

22 This document gives my agent power to make health care
23 decisions on my behalf, including to consent, to refuse to
24 consent, or to withdraw consent to the provision of any care,
25 treatment, service, or procedure to maintain, diagnose, or
26 treat a physical or mental condition. This power is subject
27 to any statement of my desires and any limitations included in
28 this document.

29 My agent has the right to examine my medical records and to
30 consent to disclosure of such records.

31 Sec. 15. Section 144B.6, subsection 1, Code 2026, is amended
32 to read as follows:

33 1. Unless the district court sitting in equity specifically
34 finds that the attorney in fact is acting in a manner contrary
35 to the wishes of the principal or the durable power of attorney

1 for health care provides otherwise, an attorney in fact who
2 is known to the health care provider to be available and
3 willing to make health care decisions has priority over any
4 other person, including a guardian appointed pursuant to
5 chapter 633, to act for the principal in all matters of health
6 care decisions. The attorney in fact has authority to make
7 a particular health care decision only if the principal is
8 unable, in the judgment of the attending ~~physician or attending~~
9 ~~physician assistant~~ provider, to make the health care decision.
10 If the principal objects to a decision to withhold or withdraw
11 health care, the principal shall be presumed to be able to make
12 a decision.

13 Sec. 16. Section 144C.2, subsection 16, Code 2026, is
14 amended to read as follows:

15 16. "*Licensed hospice program*" means a licensed hospice
16 program as ~~defined~~ described in [section 135J.1](#).

17 Sec. 17. Section 633.635, Code 2026, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 6. Notwithstanding subsections 2 and 3, a
20 guardian may make a decision for a protected person pursuant to
21 sections 135J.3A, 144A.7, and 144A.7B without court approval.

22 Sec. 18. Section 633.669, subsection 1, paragraph b, Code
23 2026, is amended by adding the following new subparagraphs:

24 NEW SUBPARAGRAPH. (11) The protected person's wishes
25 related to withholding or withdrawal of life-sustaining
26 procedures pursuant to chapter 144A or 144D.

27 NEW SUBPARAGRAPH. (12) The protected person's wishes
28 related to placement in a hospice program in the event of a
29 terminal condition.

30 Sec. 19. Section 633.669, subsection 1, paragraph c, Code
31 2026, is amended by adding the following new subparagraphs:

32 NEW SUBPARAGRAPH. (9) The protected person's wishes
33 related to withholding or withdrawal of life-sustaining
34 procedures pursuant to chapter 144A or 144D.

35 NEW SUBPARAGRAPH. (10) The protected person's wishes

1 related to placement in a hospice program in the event of a
2 terminal condition.>

3 2. Title page, line 3, by striking <and>

4 3. Title page, line 4, by striking <care> and inserting
5 <care, and probate court guardianship reports>

MARK COSTELLO