

F I N A L R E P O R T

HEALTH CARE COSTS STUDY COMMITTEE

December, 1984

Creation. The Health Care Costs Study Committee was created by the Legislative Council in 1984 to determine the need for legislative action relating to health care costs in Iowa. The Study Committee was initially authorized three meeting days and received authorization for an additional meeting day. The following legislators served on the Study Committee:

Senator Robert Carr, Co-chairperson  
Representative JoAnn Zimmerman, Co-chairperson  
Senator Ted Anderson  
Senator William D. Palmer  
Senator Edgar H. Holden  
Senator Dale L. Tieden  
Representative C. Arthur Ollie  
Representative Al Sturgeon  
Representative Sue Mullins  
Representative Mike Van Camp

The Study Committee met on September 27, November 13, December 5, and December 6, 1984.

Testimony. At the first meeting the Study Committee heard testimony in the following subject areas:

Preadmission Screening for Nursing Home Residents  
Ms. Dana Petrowsky, Department of Health  
Ms. Zolita Henderson, Iowa Foundation for Medical Care  
Mr. Gary Gesamen, Department of Human Services  
Prospective Payment/Rate Regulation  
Mr. William A. Stauffer, Blue Cross and Blue Shield of Iowa  
Mr. Paul Brown, Iowa Life Insurance Association  
Mr. Pat Logue, Iowa Hospital Association  
Health Data Commission  
Mr. Clark McDonald, Department of Human Services  
Consumer Viewpoint  
Mr. Mel Henderson, Health Policy Corporation of Iowa

At its second meeting on November 13, 1984 the Study Committee received testimony in the following areas:

Comprehensive Community Resources for Long-Term Care  
Ms. Karen Tynes, Commission on the Aging  
Rural Health Care Centers  
Ms. Josephine Gittler, University of Iowa College of Law

External Review of Health Maintenance Organizations

Mr. Steve Tiwald, Share Health Plan of Iowa  
Mr. Mike Hammes, Cedar Valley Health Plan  
Dr. James Maroc, Iowa Foundation for Medical Care  
Mr. Norman Pawlewski, Commissioner of Public Health

Hospital Licensing

Mr. Norman Pawlewski, Commissioner of Public Health

Health Care Cost

Dr. Norman Rose, Iowa Osteopathic Medical Association  
Dr. Clarence Denser, Iowa Medical Society

Preadmission Screening for Nursing Home Residents

Mr. Larry Breeding, Iowa Health Care Association  
Mr. Tom DeHaven, Ramsey Memorial Home

Pharmacy Cost Containment

Mr. Tom Temple, Iowa Pharmacists Association

On December 5 the Study Committee received information in the following areas:

Rural Health Care Centers

Dr. Paul Seebohm, University of Iowa College of Medicine

Mental Health Insurance Coverage

Ms. Taunya Johnson, Mental Health Association of Iowa

Homemaker Home Health Care Funding Procedures

Mr. Ed Lenz, Iowa Nursing Services Association

Ms. Shirley Keiser, Iowa Council for Homemaker Home Health  
Aide Services

Scope of Practice--Optometrists

Dr. Allan Blume, Iowa Optometric Association  
Dr. John Thomas, Iowa Optometric Association

The Study Committee received testimony on December 6 in the following areas:

ICF--Heavy Care Reimbursement Rate

Mr. Will Miller, Department of Human Services

Cost-Shifting Among Third-Party Payers

Mr. Sal Bognanni, Health Policy Corporation of Iowa

Comprehensive Community Resources for Long-Term Care

Mr. Thom Freyer, Commission on the Aging

Recommendations. The members of the Study Committee un-  
animously recommended a bill draft to the Legislative Council and  
the General Assembly: (1) to extend the sunset of the State  
Health Data Commission from July 1, 1985 to July 1, 1989; (2) to  
require that physicians and chiropractors use common third-party  
reimbursement forms by July 1, 1986; (3) to encourage other health  
care providers to use common third-party reimbursement forms; and  
(4) to encourage the Commission to begin exploring the feasibility  
of collecting cost data on long-term health care and home health  
care. The bill draft is attached.

The Study Committee recommended, on a six to one vote, to the  
Legislative Council and the General Assembly, a bill draft

entitled the "Right to Decline Life-Sustaining Procedures Act of Iowa," commonly referred to as the living will bill. The bill draft is attached. The same bill draft has also been prefiled by individual legislators in the Senate and House of Representatives.

The members of the Study Committee unanimously recommended to the Legislative Council and the General Assembly that the Social Services Appropriations Subcommittee study the ICF--Heavy Care reimbursement rate (20 percent differential) proposed by the Department of Human Services to the Governor.

The Study Committee, on a six to two vote, endorsed the concept of establishing a coordinated, comprehensive long-term care program within the Commission on the Aging and recommended to the Legislative Council and the General Assembly that the appropriate Appropriations Subcommittee fund two pilot projects to perform individual needs assessments of and case management for elderly persons requiring multiple long-term care services.

Deliberations. The Study Committee debated the merits of the following bill draft proposals, all of which either failed to receive the requisite three votes from each house or were tabled by the Study Committee:

1. The hospital licensure bill proposed by the Department of Health, which received four affirmative House votes but only two affirmative Senate votes, failing on a combined vote of six to one.

2. The proposed establishment of a rural health care center program to decentralize University of Iowa residency practice programs in certain medical and health-related areas, which received four affirmative House votes but only received one affirmative Senate vote, failing on a combined vote of five to two.

3. The proposal to authorize a health maintenance organization to select, with federal or state approval, its own professional external review organization, which was tabled on a vote of five to two. The Board of Health is currently drafting an amended administrative rule on the subject.

4. House File 519 (1983), prohibiting discriminating rates for the same health care services by providers or third-party payers, which was tabled on a unanimous vote.

5. The proposal to license hospital administrators, which was deferred.

SENATE/HOUSE FILE \_\_\_\_\_

BY (PREPARED BY THE LEGISLATIVE  
SERVICE BUREAU FOR THE  
HEALTH CARE COSTS STUDY  
COMMITTEE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to life-sustaining procedures by providing a  
2 procedure for declarations by certain competent adults  
3 that life-sustaining procedures may be withheld or with-  
4 drawn; providing for revocations; providing a procedure  
5 in absence of a declaration; providing for patient trans-  
6 fers; providing immunity from liability; prohibiting  
7 destruction, concealment or forging of declarations or  
8 revocations; providing penalties; and providing other  
9 matters properly relating thereto.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 144A.1 SHORT TITLE.

2 This chapter may be cited as the "Right to Decline Life-  
3 Sustaining Procedures Act."

4 Sec. 2. NEW SECTION. 144A.2 DEFINITIONS.

5 Except as otherwise provided, as used in this chapter:

6 1. "Adult" means an individual eighteen years of age or  
7 older.

8 2. "Attending physician" means the physician selected by,  
9 or assigned to, the patient who has primary responsibility for  
10 the treatment and care of the patient.

11 3. "Declaration" means a document executed in accordance  
12 with the requirements of section 144A.3.

13 4. "Health care provider" means a health care facility  
14 licensed pursuant to chapter 135C, a hospice program licensed  
15 pursuant to chapter 135, or a hospital licensed pursuant to  
16 chapter 135B.

17 5. "Life-sustaining procedure" means any medical procedure  
18 or intervention that, when administered to a qualified  
19 patient, will serve only to prolong the dying process.

20 6. "Physician" means a person licensed to practice medi-  
21 cine and surgery, osteopathy or osteopathic medicine and  
22 surgery in this state.

23 7. "Qualified patient" means a patient who has executed a  
24 declaration in accordance with this chapter and who has been  
25 determined by the attending physician to be in a terminal con-  
26 dition.

27 8. "Terminal condition" means an incurable or irreversible  
28 condition that, without the administration of life-sustaining  
29 procedures, will, in the opinion of the attending physician,  
30 result in death within a relatively short time.

31 Sec. 3. NEW SECTION. 144A.3 DECLARATION RELATING TO USE  
32 OF LIFE-SUSTAINING PROCEDURES.

33 1. Any competent adult may execute a declaration at any  
34 time directing that life-sustaining procedures be withheld or  
35 withdrawn. The declaration may be given operative effect only

1 if the declarant's condition is determined to be terminal and  
2 the declarant is not able to make treatment decisions. The  
3 declaration must be signed by the declarant or another at the  
4 declarant's direction in the presence of two persons who shall  
5 sign the declaration as witnesses. An attending physician or  
6 health care provider may presume, in the absence of actual no-  
7 tice to the contrary, that the declaration complies with this  
8 chapter and is valid.

9 2. It is the responsibility of the declarant to provide  
10 the declarant's attending physician with the declaration.

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

13 DECLARATION

14 If I should have an incurable or irreversible condition  
15 that will cause my death within a relatively short time, it is  
16 my desire that my life not be prolonged by administration of  
17 life-sustaining procedures. If my condition is terminal and I  
18 am unable to participate in decisions regarding my medical  
19 treatment, I direct my attending physician to withhold or  
20 withdraw procedures that merely prolong the dying process and  
21 are not necessary to my comfort or freedom from pain.

22 Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

23 Signature \_\_\_\_\_

24 City, County and State of Residence \_\_\_\_\_

25 The declarant is known to me and voluntarily signed this  
26 document in my presence.

27 Witness \_\_\_\_\_

28 Address \_\_\_\_\_

29 Witness \_\_\_\_\_

30 Address \_\_\_\_\_

31 Sec. 4. NEW SECTION. 144A.4 REVOCATION OF DECLARATION.

32 1. A declaration may be revoked at any time and in any  
33 manner by which the declarant is able to communicate the  
34 declarant's intent to revoke, without regard to mental or  
35 physical condition. A revocation is only effective as to the

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 attending physician upon communication to such physician by  
2 the declarant or by another to whom the revocation was  
3 communicated.

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

6 Sec. 5. NEW SECTION. 144A.5 RECORDING DETERMINATION OF  
7 TERMINAL CONDITION.

8 When an attending physician who has been provided with a  
9 declaration determines that the declarant is in a terminal  
10 condition, the physician must record that determination in the  
11 declarant's medical record.

12 Sec. 6. NEW SECTION. 144A.6 TREATMENT OF QUALIFIED PA-  
13 TIENTS.

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

19 2. This chapter does not prohibit the application of any  
20 medical procedure or intervention, including the provision of  
21 nutrition and hydration, considered necessary to provide com-  
22 fort care or to alleviate pain.

23 3. The declaration of a qualified patient known to the  
24 attending physician to be pregnant shall be given no effect as  
25 long as the fetus could develop to the point of live birth  
26 with continued application of life-sustaining procedures.

27 Sec. 7. NEW SECTION. 144A.7 PROCEDURE IN ABSENCE OF  
28 DECLARATION.

29 1. As used in this section, "life-sustaining procedure"  
30 means any medical procedure or intervention that, when ad-  
31 ministered to a patient determined by the attending physician  
32 to be in a terminal condition, will serve only to prolong the  
33 dying process.

34 2. Life-sustaining procedures may be withheld or withdrawn  
35 from a patient who is in a terminal condition and who is

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

10 a. The attorney in fact designated to make treatment  
11 decisions for the patient should such person be diagnosed as  
12 suffering from a terminal condition, if the designation is in  
13 writing and complies with section 633.705.

14 b. The guardian of the person of the patient if one has  
15 been appointed. This paragraph does not require the ap-  
16 pointment of a guardian in order for a treatment decision to  
17 be made under this section.

18 c. The patient's spouse.

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

22 e. A parent of the patient, or parents if both are rea-  
23 sonably available.

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

28 Sec. 8. NEW SECTION. 144A.8 TRANSFER OF PATIENTS.

29 1. An attending physician who is unwilling to comply with  
30 the requirements of section 144A.5 or who is unwilling to  
31 comply with the declaration of a qualified patient in ac-  
32 cordance with section 144A.6 shall take all reasonable steps  
33 to effect the transfer of the declarant to another physician.

34 2. If the policies of a health care provider preclude  
35 compliance with the declaration of a qualified patient under

1 this chapter, the provider shall take all reasonable steps to  
2 effect the transfer of the patient to a facility in which the  
3 provisions of this chapter can be carried out.

4 Sec. 9. NEW SECTION. 144A.9 IMMUNITIES.

5 1. In the absence of actual notice of the revocation of a  
6 declaration, the following, while acting in accordance with  
7 the requirements of this chapter, are not subject to civil or  
8 criminal liability or guilty of unprofessional conduct:

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

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

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

16 2. A physician is not subject to civil or criminal lia-  
17 bility for actions under this chapter which are in accord with  
18 reasonable medical standards.

19 3. Any person, institution or facility against whom cri-  
20 minal or civil liability is asserted because of conduct in  
21 compliance with this chapter may interpose this chapter as an  
22 absolute defense.

23 Sec. 10. NEW SECTION. 144A.10 PENALTIES.

24 1. Any person who willfully conceals, withholds, cancels,  
25 destroys, alters, defaces, or obliterates the declaration of  
26 another without the declarant's consent or who falsifies or  
27 forges a revocation of the declaration of another is guilty of  
28 a serious misdemeanor.

29 2. Any person who falsifies or forges the declaration of  
30 another, or willfully conceals or withholds personal knowledge  
31 of or delivery of a revocation as provided in section 144A.4,  
32 with the intent to cause a withholding or withdrawal of life-  
33 sustaining procedures, is guilty of a serious misdemeanor.

34 Sec. 11. NEW SECTION. 144A.11 GENERAL PROVISIONS.

35 1. Death resulting from the withholding or withdrawal of

1 life-sustaining procedures pursuant to a declaration and in  
2 accordance with this chapter does not, for any purpose, con-  
3 stitute a suicide or homicide.

4 2. The making of a declaration pursuant to section 144A.3  
5 does not affect in any manner the sale, procurement, or is-  
6 suance of any policy of life insurance, nor shall it be deemed  
7 to modify the terms of an existing policy of life insurance.  
8 No policy of life insurance is legally impaired or invalidated  
9 in any manner by the withholding or withdrawal of life-sus-  
10 taining procedures pursuant to this chapter, notwithstanding  
11 any term of the policy to the contrary.

12 3. A physician, health care provider, health care service  
13 plan, insurer issuing disability insurance, self-insured  
14 employee welfare benefit plan, or nonprofit hospital plan  
15 shall not require any person to execute a declaration as a  
16 condition for being insured for, or receiving, health care  
17 services.

18 4. This chapter creates no presumption concerning the  
19 intention of an individual who has not executed a declaration  
20 with respect to the use, withholding, or withdrawal of life-  
21 sustaining procedures in the event of a terminal condition.

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

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

33

#### EXPLANATION

34 This bill allows and provides a process by which an adult  
35 may execute a directive providing that life-sustaining

1 procedures should be withheld or withdrawn if that person is  
2 terminally ill as certified by the person's attending phy-  
3 sician and life-sustaining procedures would only serve to  
4 prolong the dying process. A terminal condition is an incur-  
5 able or irreversible condition which, without the adminis-  
6 tration of life-sustaining procedures, would result in death  
7 within a relatively short time.

8 The bill provides for means of revocation of a declaration  
9 and establishes a procedure for making decisions on the  
10 withholding or withdrawal of life-sustaining procedures in the  
11 absence of a declaration.

12 The bill provides for transfer of patients by attending  
13 physicians or health care facilities who are unwilling to com-  
14 ply with the requirements of the bill. The bill also provides  
15 for immunities to persons acting pursuant to it and estab-  
16 lishes penalties for persons forging declarations or conceal-  
17 ing revocations of declarations.

18 The bill provides that it shall not be construed to con-  
19 done, authorize or approve mercy killing or euthanasia or to  
20 permit any affirmative or deliberate act or omission to end  
21 life other than to permit the natural process of dying.

22 The bill creates a new chapter 144A and includes internal  
23 references to sections within that chapter.

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SENATE/HOUSE FILE \_\_\_\_\_

BY (PREPARED BY THE LEGISLATIVE  
SERVICE BUREAU FOR THE  
HEALTH CARE COSTS STUDY  
COMMITTEE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the health data commission by delaying the  
2 termination of the commission, requiring certain members  
3 of the commission to implement common medical reimbursement  
4 reporting forms, and permitting the commission to initiate  
5 a review of collection of information relating to long term  
6 care and home health care.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 145.3, subsection 3, Code 1985, is  
2 amended by adding the following new lettered paragraphs:  
3 NEW LETTERED PARAGRAPH. h. The commissioner of insurance  
4 and the commissioner of human services require all physicians  
5 licensed under chapter 148 or 150A and third-party payers to  
6 use a common reporting form for physician reimbursement claims  
7 by July 1, 1986 and all chiropractors licensed under chapter  
8 151 and third-party payers to use a common reporting form by  
9 July 1, 1986.

10 NEW LETTERED PARAGRAPH. i. The commissioner of insurance  
11 and the commissioner of human services encourage health care  
12 providers, as defined in section 514.1, except licensed  
13 physicians and chiropractors, and third-party payers to use a  
14 common reporting form.

15 Sec. 2. Section 145.3, subsection 4, Code 1985, is amended  
16 by adding the following new lettered paragraph:

17 NEW LETTERED PARAGRAPH. e. The health policy corporation  
18 of Iowa or any other corporation, association, or entity or  
19 state agency deemed appropriate begin exploring the fea-  
20 sibility of collecting data for long-term health care and home  
21 health care relating to cost and utilization information.

22 Sec. 3. Section 145.6, Code 1985, is amended to read as  
23 follows:

24 145.6 REPORTS AND TERMINATION OF COMMISSION.

25 The commission shall submit a an annual report on the  
26 actions taken by the commission to the legislature not later  
27 than January 15, 1984 and January 15, 1985 of each year. The  
28 commission shall be terminated July 1, 1985 1989. If the  
29 legislature does not extend the date for termination, a final  
30 report shall be submitted to the legislature by July 1, 1985  
31 1989.

32 EXPLANATION

33 This bill requires that the state health data commission  
34 require the use of a common reporting form for medical  
35 reimbursement by licensed physicians, chiropractors, and

SENATE/HOUSE FILE \_\_\_\_\_

BY (PREPARED BY THE LEGISLATIVE  
SERVICE BUREAU FOR THE  
HEALTH CARE COSTS STUDY  
COMMITTEE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to life-sustaining procedures by providing a  
2 procedure for declarations by certain competent adults  
3 that life-sustaining procedures may be withheld or with-  
4 drawn; providing for revocations; providing a procedure  
5 in absence of a declaration; providing for patient trans-  
6 fers; providing immunity from liability; prohibiting  
7 destruction, concealment or forging of declarations or  
8 revocations; providing penalties; and providing other  
9 matters properly relating thereto.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 144A.1 SHORT TITLE.

2 This chapter may be cited as the "Right to Decline Life-  
3 Sustaining Procedures Act."

4 Sec. 2. NEW SECTION. 144A.2 DEFINITIONS.

5 Except as otherwise provided, as used in this chapter:

6 1. "Adult" means an individual eighteen years of age or  
7 older.

8 2. "Attending physician" means the physician selected by,  
9 or assigned to, the patient who has primary responsibility for  
10 the treatment and care of the patient.

11 3. "Declaration" means a document executed in accordance  
12 with the requirements of section 144A.3.

13 4. "Health care provider" means a health care facility  
14 licensed pursuant to chapter 135C, a hospice program licensed  
15 pursuant to chapter 135, or a hospital licensed pursuant to  
16 chapter 135B.

17 5. "Life-sustaining procedure" means any medical procedure  
18 or intervention that, when administered to a qualified  
19 patient, will serve only to prolong the dying process.

20 6. "Physician" means a person licensed to practice medi-  
21 cine and surgery, osteopathy or osteopathic medicine and  
22 surgery in this state.

23 7. "Qualified patient" means a patient who has executed a  
24 declaration in accordance with this chapter and who has been  
25 determined by the attending physician to be in a terminal con-  
26 dition.

27 8. "Terminal condition" means an incurable or irreversible  
28 condition that, without the administration of life-sustaining  
29 procedures, will, in the opinion of the attending physician,  
30 result in death within a relatively short time.

31 Sec. 3. NEW SECTION. 144A.3 DECLARATION RELATING TO USE  
32 OF LIFE-SUSTAINING PROCEDURES.

33 1. Any competent adult may execute a declaration at any  
34 time directing that life-sustaining procedures be withheld or  
35 withdrawn. The declaration may be given operative effect only

1 if the declarant's condition is determined to be terminal and  
2 the declarant is not able to make treatment decisions. The  
3 declaration must be signed by the declarant or another at the  
4 declarant's direction in the presence of two persons who shall  
5 sign the declaration as witnesses. An attending physician or  
6 health care provider may presume, in the absence of actual no-  
7 tice to the contrary, that the declaration complies with this  
8 chapter and is valid.

9 2. It is the responsibility of the declarant to provide  
10 the declarant's attending physician with the declaration.

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

13 DECLARATION

14 If I should have an incurable or irreversible condition  
15 that will cause my death within a relatively short time, it is  
16 my desire that my life not be prolonged by administration of  
17 life-sustaining procedures. If my condition is terminal and I  
18 am unable to participate in decisions regarding my medical  
19 treatment, I direct my attending physician to withhold or  
20 withdraw procedures that merely prolong the dying process and  
21 are not necessary to my comfort or freedom from pain.

22 Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

23 Signature \_\_\_\_\_

24 City, County and State of Residence \_\_\_\_\_

25 The declarant is known to me and voluntarily signed this  
26 document in my presence.

27 Witness \_\_\_\_\_

28 Address \_\_\_\_\_

29 Witness \_\_\_\_\_

30 Address \_\_\_\_\_

31 Sec. 4. NEW SECTION. 144A.4 REVOCATION OF DECLARATION.

32 1. A declaration may be revoked at any time and in any  
33 manner by which the declarant is able to communicate the  
34 declarant's intent to revoke, without regard to mental or  
35 physical condition. A revocation is only effective as to the

1 attending physician upon communication to such physician by  
2 the declarant or by another to whom the revocation was  
3 communicated.

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

6 Sec. 5. NEW SECTION. 144A.5 RECORDING DETERMINATION OF  
7 TERMINAL CONDITION.

8 When an attending physician who has been provided with a  
9 declaration determines that the declarant is in a terminal  
10 condition, the physician must record that determination in the  
11 declarant's medical record.

12 Sec. 6. NEW SECTION. 144A.6 TREATMENT OF QUALIFIED PA-  
13 TIENTS.

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

19 2. This chapter does not prohibit the application of any  
20 medical procedure or intervention, including the provision of  
21 nutrition and hydration, considered necessary to provide com-  
22 fort care or to alleviate pain.

23 3. The declaration of a qualified patient known to the  
24 attending physician to be pregnant shall be given no effect as  
25 long as the fetus could develop to the point of live birth  
26 with continued application of life-sustaining procedures.

27 Sec. 7. NEW SECTION. 144A.7 PROCEDURE IN ABSENCE OF  
28 DECLARATION.

29 1. As used in this section, "life-sustaining procedure"  
30 means any medical procedure or intervention that, when ad-  
31 ministered to a patient determined by the attending physician  
32 to be in a terminal condition, will serve only to prolong the  
33 dying process.

34 2. Life-sustaining procedures may be withheld or withdrawn  
35 from a patient who is in a terminal condition and who is

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

10 a. The attorney in fact designated to make treatment  
11 decisions for the patient should such person be diagnosed as  
12 suffering from a terminal condition, if the designation is in  
13 writing and complies with section 633.705.

14 b. The guardian of the person of the patient if one has  
15 been appointed. This paragraph does not require the ap-  
16 pointment of a guardian in order for a treatment decision to  
17 be made under this section.

18 c. The patient's spouse.

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

22 e. A parent of the patient, or parents if both are rea-  
23 sonably available.

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

28 Sec. 8. NEW SECTION. 144A.8 TRANSFER OF PATIENTS.

29 1. An attending physician who is unwilling to comply with  
30 the requirements of section 144A.5 or who is unwilling to  
31 comply with the declaration of a qualified patient in ac-  
32 cordance with section 144A.6 shall take all reasonable steps  
33 to effect the transfer of the declarant to another physician.

34 2. If the policies of a health care provider preclude  
35 compliance with the declaration of a qualified patient under

1 this chapter, the provider shall take all reasonable steps to  
2 effect the transfer of the patient to a facility in which the  
3 provisions of this chapter can be carried out.

4 Sec. 9. NEW SECTION. 144A.9 IMMUNITIES.

5 1. In the absence of actual notice of the revocation of a  
6 declaration, the following, while acting in accordance with  
7 the requirements of this chapter, are not subject to civil or  
8 criminal liability or guilty of unprofessional conduct:

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

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

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

16 2. A physician is not subject to civil or criminal lia-  
17 bility for actions under this chapter which are in accord with  
18 reasonable medical standards.

19 3. Any person, institution or facility against whom cri-  
20 minal or civil liability is asserted because of conduct in  
21 compliance with this chapter may interpose this chapter as an  
22 absolute defense.

23 Sec. 10. NEW SECTION. 144A.10 PENALTIES.

24 1. Any person who willfully conceals, withholds, cancels,  
25 destroys, alters, defaces, or obliterates the declaration of  
26 another without the declarant's consent or who falsifies or  
27 forges a revocation of the declaration of another is guilty of  
28 a serious misdemeanor.

29 2. Any person who falsifies or forges the declaration of  
30 another, or willfully conceals or withholds personal knowledge  
31 of or delivery of a revocation as provided in section 144A.4,  
32 with the intent to cause a withholding or withdrawal of life-  
33 sustaining procedures, is guilty of a serious misdemeanor.

34 Sec. 11. NEW SECTION. 144A.11 GENERAL PROVISIONS.

35 1. Death resulting from the withholding or withdrawal of

1 life-sustaining procedures pursuant to a declaration and in  
2 accordance with this chapter does not, for any purpose, con-  
3 stitute a suicide or homicide.

4 2. The making of a declaration pursuant to section 144A.3  
5 does not affect in any manner the sale, procurement, or is-  
6 suance of any policy of life insurance, nor shall it be deemed  
7 to modify the terms of an existing policy of life insurance.  
8 No policy of life insurance is legally impaired or invalidated  
9 in any manner by the withholding or withdrawal of life-sus-  
10 taining procedures pursuant to this chapter, notwithstanding  
11 any term of the policy to the contrary.

12 3. A physician, health care provider, health care service  
13 plan, insurer issuing disability insurance, self-insured  
14 employee welfare benefit plan, or nonprofit hospital plan  
15 shall not require any person to execute a declaration as a  
16 condition for being insured for, or receiving, health care  
17 services.

18 4. This chapter creates no presumption concerning the  
19 intention of an individual who has not executed a declaration  
20 with respect to the use, withholding, or withdrawal of life-  
21 sustaining procedures in the event of a terminal condition.

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

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

33

#### EXPLANATION

34 This bill allows and provides a process by which an adult  
35 may execute a directive providing that life-sustaining

1 procedures should be withheld or withdrawn if that person is  
2 terminally ill as certified by the person's attending phy-  
3 sician and life-sustaining procedures would only serve to  
4 prolong the dying process. A terminal condition is an incur-  
5 able or irreversible condition which, without the adminis-  
6 tration of life-sustaining procedures, would result in death  
7 within a relatively short time.

8 The bill provides for means of revocation of a declaration  
9 and establishes a procedure for making decisions on the  
10 withholding or withdrawal of life-sustaining procedures in the  
11 absence of a declaration.

12 The bill provides for transfer of patients by attending  
13 physicians or health care facilities who are unwilling to com-  
14 ply with the requirements of the bill. The bill also provides  
15 for immunities to persons acting pursuant to it and estab-  
16 lishes penalties for persons forging declarations or conceal-  
17 ing revocations of declarations.

18 The bill provides that it shall not be construed to con-  
19 done, authorize or approve mercy killing or euthanasia or to  
20 permit any affirmative or deliberate act or omission to end  
21 life other than to permit the natural process of dying.

22 The bill creates a new chapter 144A and includes internal  
23 references to sections within that chapter.

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SENATE/HOUSE FILE \_\_\_\_\_

BY (PREPARED BY THE LEGISLATIVE  
SERVICE BUREAU FOR THE  
HEALTH CARE COSTS STUDY  
COMMITTEE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the health data commission by delaying the  
2 termination of the commission, requiring certain members  
3 of the commission to implement common medical reimbursement  
4 reporting forms, and permitting the commission to initiate  
5 a review of collection of information relating to long term  
6 care and home health care.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 145.3, subsection 3, Code 1985, is  
2 amended by adding the following new lettered paragraphs:

3 NEW LETTERED PARAGRAPH. h. The commissioner of insurance  
4 and the commissioner of human services require all physicians  
5 licensed under chapter 148 or 150A and third-party payers to  
6 use a common reporting form for physician reimbursement claims  
7 by July 1, 1986 and all chiropractors licensed under chapter  
8 151 and third-party payers to use a common reporting form by  
9 July 1, 1986.

10 NEW LETTERED PARAGRAPH. i. The commissioner of insurance  
11 and the commissioner of human services encourage health care  
12 providers, as defined in section 514.1, except licensed  
13 physicians and chiropractors, and third-party payers to use a  
14 common reporting form.

15 Sec. 2. Section 145.3, subsection 4, Code 1985, is amended  
16 by adding the following new lettered paragraph:

17 NEW LETTERED PARAGRAPH. e. The health policy corporation  
18 of Iowa or any other corporation, association, or entity or  
19 state agency deemed appropriate begin exploring the fea-  
20 sibility of collecting data for long-term health care and home  
21 health care relating to cost and utilization information.

22 Sec. 3. Section 145.6, Code 1985, is amended to read as  
23 follows:

24 145.6 REPORTS AND TERMINATION OF COMMISSION.

25 The commission shall submit ~~a~~ an annual report on the  
26 actions taken by the commission to the legislature not later  
27 than ~~January 15, 1984 and January 15, 1985~~ of each year. The  
28 commission shall be terminated July 1, ~~1985~~ 1989. If the  
29 legislature does not extend the date for termination, a final  
30 report shall be submitted to the legislature by July 1, ~~1985~~  
31 1989.

32 EXPLANATION

33 This bill requires that the state health data commission  
34 require the use of a common reporting form for medical  
35 reimbursement by licensed physicians, chiropractors, and

1 third-party payers by July 1, 1986. All health care providers  
2 and third-party payers would be encouraged to use a common  
3 reporting form.

4 The bill permits the health data commission to require the  
5 health policy corporation of Iowa or other designee to explore  
6 the feasibility of collecting cost data relating to long-term  
7 health care and home health care.

8 The bill also extends the sunset provision of the health  
9 data commission from July 1, 1985 to July 1, 1989.

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