

House File 2165

AN ACT

RELATING TO PHYSICIAN ORDERS FOR SCOPE OF TREATMENT.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly recognizes the importance of encouraging individuals to discuss and make health care decisions before a situation necessitates an actual decision. The general assembly also recognizes that health care planning is a process, rather than a single decision, based upon the individual's values and personal health status. Advance directives provide the opportunity for an individual to enunciate and document the individual's wishes and to identify the person authorized to make decisions for the individual if the individual is unable to make decisions. The general assembly recognizes that the physician orders for scope of treatment form, modeled after the national physician orders for life-sustaining treatment paradigm initiative, complements advance directives by converting individual wishes contained in advance directives, or as otherwise expressed, into medical orders that may be recognized and acted upon across medical settings, thereby enhancing the ability of medical providers to understand and honor patients' wishes. An Iowa physician

orders for scope of treatment form is intended for individuals who are frail and elderly or who have a chronic, critical medical condition or a terminal illness.

Sec. 2. NEW SECTION. 144D.1 **Physician orders for scope of treatment.**

As used in this chapter, unless the context otherwise requires:

1. "*Advanced registered nurse practitioner*" means an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E.

2. "*Department*" means the department of public health.

3. "*Emergency medical care provider*" means emergency medical care provider as defined in section 147A.1.

4. "*Health care facility*" means health care facility as defined in section 135C.1, a hospice program as defined in section 135J.1, an elder group home as defined in section 231B.1, and an assisted living program as defined in section 231C.2.

5. "*Health care provider*" means an individual, including an emergency medical care provider and an individual providing home and community-based services, and including a home health agency, 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.

6. "*Home health agency*" means home health agency as defined in 42 C.F.R. pt. 484.

7. "*Hospital*" means hospital as defined in section 135B.1.

8. "*Legal representative*" means an individual authorized to execute a POST form on behalf of a patient who is not competent to do so, in the order of priority set out in section 144A.7, subsection 1, and guided by the express or implied intentions of the patient or, if such intentions are unknown, by the patient's best interests given the patient's overall medical condition and prognosis.

9. "*Patient*" means an individual who is frail and elderly or who has a chronic, critical medical condition or a terminal illness and for which a physician orders for scope of treatment is consistent with the individual's goals of care.

10. "*Physician*" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

11. "*Physician assistant*" means a person licensed as a physician assistant under chapter 148C.

12. *“Physician orders for scope of treatment form” or “POST form”* means a document containing medical orders which may be relied upon across medical settings that consolidates and summarizes a patient’s preferences for life-sustaining treatments and interventions and acts as a complement to and does not supersede any valid advance directive.

**Sec. 3. NEW SECTION. 144D.2 Physician orders for scope of treatment (POST) form.**

1. The POST form shall be a uniform form based upon the national physician orders for life-sustaining treatment paradigm form. The form shall have all of the following characteristics:

*a.* The form shall include the patient’s name and date of birth.

*b.* The form shall be signed and dated by the patient or the patient’s legal representative.

*c.* The form shall be signed and dated by the patient’s physician, advanced registered nurse practitioner, or physician assistant.

*d.* If preparation of the form was facilitated by an individual other than the patient’s physician, advanced registered nurse practitioner, or physician assistant, the facilitator shall also sign and date the form.

*e.* The form shall include the patient’s wishes regarding the care of the patient, including but not limited to all of the following:

(1) The administration of cardiopulmonary resuscitation.

(2) The level of medical interventions in the event of a medical emergency.

(3) The use of medically administered nutrition by tube.

(4) The rationale for the orders.

*f.* The form shall be easily distinguishable to facilitate recognition by health care providers, hospitals, and health care facilities.

*g.* An incomplete section on the form shall imply the patient’s wishes for full treatment for the type of treatment addressed in that section.

2. The department shall prescribe the uniform POST form and shall post the form on the department’s website for public availability.

**Sec. 4. NEW SECTION. 144D.3 Compliance with POST form.**

1. A POST form executed in this state or 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 form is consistent with the laws of this state, and may be accepted by a health care provider, hospital, or health care facility.

2. A health care provider, hospital, or health care facility may comply with an executed POST form, notwithstanding that the physician, advanced registered nurse practitioner, or physician assistant who signed the POST form does not have admitting privileges at the hospital or health care facility providing health care or treatment.

3. A POST form may be revoked at any time and in any manner by which the patient or a patient's legal representative is able to communicate the patient's intent to revoke, without regard to the patient's mental or physical condition. A revocation is only effective as to the health care provider, hospital, or health care facility upon communication to the health care provider, hospital, or health care facility by the patient, the patient's legal representative, or by another to whom the revocation was communicated.

4. In the absence of actual notice of the revocation of a POST form, a health care provider, hospital, health care facility, or any other person who complies with a POST form shall not be subject to civil or criminal liability or professional disciplinary action for actions taken under this chapter which are in accordance with reasonable medical standards. A health care provider, hospital, health care facility, or other person against whom criminal or civil liability or professional disciplinary action is asserted because of conduct in compliance with this chapter may interpose the restriction on liability in this paragraph as an absolute defense.

5. A health care provider, hospital, or health care facility that is unwilling to comply with an executed POST form based on policy, religious beliefs, or moral convictions shall take all reasonable steps to transfer the patient to another health care provider, hospital, or health care facility.

**Sec. 5. NEW SECTION. 144D.4 General provisions.**

1. If an individual is a qualified patient as defined in section 144A.2, the individual's declaration executed under chapter 144A shall control health care decision making for the individual in accordance with chapter 144A. If an individual has not executed a declaration pursuant to chapter 144A, health care decision making relating to life-sustaining procedures for

the individual shall be governed by section 144A.7. A POST form shall not supersede a declaration executed pursuant to chapter 144A.

2. If an individual has executed a durable power of attorney for health care pursuant to chapter 144B, the individual's durable power of attorney for health care shall control health care decision making for the individual in accordance with chapter 144B. A POST form shall not supersede a durable power of attorney for health care executed pursuant to chapter 144B.

3. If the individual's physician has issued an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A, the POST form shall not supersede the out-of-hospital do-not-resuscitate order.

4. Death resulting from the withholding or withdrawal of life-sustaining procedures pursuant to an executed POST form and in accordance with this chapter does not, for any purpose, constitute a suicide, homicide, or dependent adult abuse.

5. The executing of a POST form 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. A policy of life insurance is not 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.

6. A health care provider, hospital, health care facility, 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 POST form as a condition of being insured for, or receiving, health care services.

7. This chapter does not create a presumption concerning the intention of an individual who has not executed a POST form with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition.

8. This chapter shall not be interpreted to affect the right of an individual to make decisions regarding use of life-sustaining procedures as long as the individual 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.

9. 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.

---

KRAIG PAULSEN  
Speaker of the House

---

JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2165, Eighty-fourth General Assembly.

---

W. CHARLES SMITHSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2012

---

TERRY E. BRANSTAD  
Governor