

Senate Study Bill 3103

Bill Text

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1 1 Section 1. Section 144A.2, Code 2001, is amended to read
1 2 as follows:

1 3 144A.2 DEFINITIONS.

1 4 Except as otherwise provided, as used in this chapter:

1 5 1. "Adult" means an individual eighteen years of age or
1 6 older.

1 7 2. "Attending physician" means the physician selected by,
1 8 or assigned to, the patient who has primary responsibility for
1 9 the treatment and care of the patient.

1 10 3. "Declaration" means a document executed in accordance
1 11 with the requirements of section 144A.3.

1 12 4. "Department" means the Iowa department of public
1 13 health.

1 14 5. "Emergency medical care provider" means emergency
1 15 medical care provider as defined in section 147A.1.

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- 6. "Health care provider" means a person, including an
1 17 emergency medical care provider, who is licensed, certified,
1 18 or otherwise authorized or permitted by the law of this state
1 19 to administer health care in the ordinary course of business
1 20 or in the practice of a profession.

1 21 7. "Hospital" means hospital as defined in section 135B.1.

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- 8. "Life-sustaining procedure" means any medical
1 23 procedure, treatment, or intervention, including
1 24 resuscitation, which meets both of the following requirements:
1 25 a. Utilizes mechanical or artificial means to sustain,
1 26 restore, or supplant a spontaneous vital function.

1 27 b. When applied to a patient in a terminal condition,
1 28 would serve only to prolong the dying process.

1 29 "Life-sustaining procedure" does not include the provision
1 30 of nutrition or hydration except when required to be provided
1 31 parenterally or through intubation or the administration of
1 32 medication or performance of any medical procedure deemed
1 33 necessary to provide comfort care or to alleviate pain.

1 34 9. "Out-of-hospital do-not-resuscitate order" means a
1 35 written order signed by a physician, executed in accordance
2 1 with the requirements of section 144A.7A and issued consistent
2 2 with this chapter, that directs the withholding or withdrawal
2 3 of resuscitation when an adult patient in a terminal condition
2 4 is outside the hospital.

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- 10. "Physician" means a person licensed to practice
2 6 medicine and surgery, osteopathy or osteopathic medicine and
2 7 surgery in this state.

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- 11. "Qualified patient" means a patient who has
2 9 executed a declaration or an out-of-hospital do-not-

2 10 resuscitate order in accordance with this chapter and who has
2 11 been determined by the attending physician to be in a terminal
2 12 condition.
2 13 12. "Resuscitation" means any medical intervention that
2 14 utilizes mechanical or artificial means to sustain, restore,
2 15 or supplant a spontaneous vital function, including but not
2 16 limited to chest compression, defibrillation, intubation, and
2 17 emergency drugs intended to alter cardiac function or
2 18 otherwise to sustain life.
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- 13. "Terminal condition" means an incurable or
2 20 irreversible condition that, without the administration of
2 21 life-sustaining procedures, will, in the opinion of the
2 22 attending physician, result in death within a relatively short
2 23 period of time or a state of permanent unconsciousness from
2 24 which, to a reasonable degree of medical certainty, there can
2 25 be no recovery.
2 26 Sec. 2. Section 144A.3, subsection 2, unnumbered paragraph
2 27 1, Code 2001, is amended to read as follows:
2 28 The declaration must be signed by the declarant or another
2 29 person acting on behalf of the declarant at the direction of
2 30 the declarant, must contain the date of

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- the declaration's
2 31 execution, and must be witnessed or acknowledged by one of the
2 32 following methods:
2 33 Sec. 3. Section 144A.3, subsection 2, paragraph a,
2 34 subparagraphs (1) and (2), Code 2001, are amended to read as
2 35 follows:
3 1 (1) A health care provider attending the declarant on the
3 2 date of execution of the declaration.
3 3 (2) An employee of a health care provider attending the
3 4 declarant on the date of execution of the declaration.
3 5 Sec. 4. Section 144A.7, subsection 1, paragraph a, Code
3 6 2001, is amended to read as follows:
3 7 a. The attorney in fact designated to make treatment
3 8 decisions for the patient should such person be diagnosed as
3 9 suffering from a terminal condition, if the designation is in
3 10 writing and complies with chapter 144B or section 633.705.
3 11 Sec. 5. NEW SECTION. 144A.7A OUT-OF-HOSPITAL DO-NOT-
3 12 RESUSCITATE ORDERS.
3 13 1. If an attending physician issues an out-of-hospital do-
3 14 not-resuscitate order for an adult patient under this section,
3 15 the physician shall use the form prescribed pursuant to
3 16 subsection 2, include a copy of the order in the patient's
3 17 medical record, and provide a copy to the patient or an
3 18 individual authorized to act on the patient's behalf.
3 19 2. The department, in collaboration with interested
3 20 parties, shall prescribe uniform out-of-hospital do-not-
3 21 resuscitate order forms and uniform personal identifiers, and
3 22 shall adopt administrative rules necessary to implement this
3 23 section. The uniform forms and personal identifiers shall be
3 24 used statewide.
3 25 3. The out-of-hospital do-not-resuscitate order form shall
3 26 include all of the following:
3 27 a. The patient's name.
3 28 b. The patient's date of birth.
3 29 c. The name of the individual authorized to act on the
3 30 patient's behalf, if applicable.
3 31 d. A statement that the patient is in a terminal
3 32 condition.
3 33 e. The physician's signature.
3 34 f. The date the form is signed.
3 35 g. A concise statement of the nature and scope of the

4 1 order.

4 2 h. Any other information necessary to provide clear and
4 3 reliable instructions to a health care provider.

4 4 4. A health care provider may withhold or withdraw
4 5 resuscitation outside a hospital consistent with an out-of-
4 6 hospital do-not-resuscitate order issued under this section
4 7 and the rules or protocols adopted by the department.

4 8 5. In fulfilling the instructions of an out-of-hospital
4 9 do-not-resuscitate order under this chapter, a health care
4 10 provider shall continue to provide appropriate comfort care
4 11 and pain relief to the patient.

4 12 6. An out-of-hospital do-not-resuscitate order shall not
4 13 apply when a patient is in need of emergency medical services
4 14 due to a sudden accident or injury resulting from a motor
4 15 vehicle collision, fire, mass casualty, or other cause of a
4 16 sudden accident or injury which is outside the scope of the
4 17 patient's terminal condition.

4 18 7. An out-of-hospital do-not-resuscitate order is deemed
4 19 revoked at any time that a patient, or an individual
4 20 authorized to act on the patient's behalf as designated on the
4 21 out-of-hospital do-not-resuscitate order, is able to
4 22 communicate in any manner the intent that the order be
4 23 revoked, without regard to the mental or physical condition of
4 24 the patient. A revocation is only effective as to the health
4 25 care provider upon communication to that provider by the
4 26 patient, an individual authorized to act on the patient's
4 27 behalf as designated in the order, or by another person to
4 28 whom the revocation is communicated.

4 29 8. The personal wishes of family members or other
4 30 individuals who are not authorized in the order to act on the
4 31 patient's behalf shall not supersede a valid out-of-hospital
4 32 do-not-resuscitate order.

4 33 9. If uncertainty regarding the validity or applicability
4 34 of an out-of-hospital do-not-resuscitate order exists, a
4 35 health care provider shall provide necessary and appropriate
5 1 resuscitation.

5 2 10. A health care provider shall document compliance or
5 3 noncompliance with an out-of-hospital do-not-resuscitate order
5 4 and the reasons for not complying with the order, including
5 5 evidence that the order was revoked or uncertainty regarding
5 6 the validity or applicability of the order.

5 7 11. This section shall not preclude a hospital licensed
5 8 under chapter 135B from honoring an out-of-hospital do-not-
5 9 resuscitate order entered in accordance with this section and
5 10 in compliance with established hospital policies and
5 11 protocols.

5 12 Sec. 6. Section [144A.8](#), Code 2001, is amended to read as
5 13 follows:

5 14 144A.8 TRANSFER OF PATIENTS.

5 15 1. An attending physician who is unwilling to comply with
5 16 the requirements of section 144A.5, or who is unwilling to
5 17 comply with the declaration of a qualified patient in
5 18 accordance with section 144A.6 or an out-of-hospital do-not-
5 19 resuscitate order pursuant to section 144A.7A, or who is
5 20 unwilling to comply with the provisions of section 144A.7 or
5 21 144A.7A shall take all reasonable steps to effect the transfer
5 22 of the patient to another physician.

5 23 2. If the policies of a health care provider preclude
5 24 compliance with the declaration or out-of-hospital do-not-
5 25 resuscitate order of a qualified patient under this chapter or
5 26 preclude compliance with the provisions of section 144A.7 or
5 27 144A.7A, the provider shall take all reasonable steps to
5 28 effect the transfer of the patient to a facility in which the
5 29 provisions of this chapter can be carried out.

5 30 Sec. 7. Section [144A.9](#), subsection 1, unnumbered paragraph
5 31 1, Code 2001, is amended to read as follows:

5 32 In the absence of actual notice of the revocation of a

5 33 declaration or of an out-of-hospital do-not-resuscitate order,
5 34 the following, while acting in accordance with the
5 35 requirements of this chapter, are not subject to civil or
6 1 criminal liability or guilty of unprofessional conduct:
6 2 Sec. 8. Section [144A.9](#), Code 2001, is amended by adding
6 3 the following new subsection:
6 4 NEW SUBSECTION. 4. In the absence of actual notice of the
6 5 revocation of an out-of-hospital do-not-resuscitate order, a
6 6 health care provider who complies with this chapter is not
6 7 subject to civil or criminal liability or guilty of
6 8 unprofessional conduct in entering, executing, or otherwise
6 9 participating in an out-of-hospital do-not-resuscitate order.
6 10 Sec. 9. Section [144A.10](#), Code 2001, is amended to read as
6 11 follows:
6 12 144A.10 PENALTIES.
6 13 1. Any person who willfully conceals, withholds, cancels,
6 14 destroys, alters, defaces, or obliterates the declaration,
6 15 out-of-hospital do-not-resuscitate order, or out-of-hospital
6 16 do-not-resuscitate identifier of another without the
6 17 declarant's or patient's consent or who falsifies or forges a
6 18 revocation of the declaration or out-of-hospital do-not-
6 19 resuscitate order of another is guilty of a serious
6 20 misdemeanor.
6 21 2. Any person who falsifies or forges the declaration or
6 22 out-of-hospital do-not-resuscitate order of another, or
6 23 willfully conceals or withholds personal knowledge of or
6 24 delivery of a revocation as provided in section [144A.4](#) or
6 25 [144A.7A](#), with the intent to cause a withholding or withdrawal
6 26 of life-sustaining procedures, is guilty of a serious
6 27 misdemeanor.
6 28 Sec. 10. Section [144A.11](#), subsections 1, 2, 3, and 4, Code
6 29 2001, are amended to read as follows:
6 30 1. Death resulting from the withholding or withdrawal of
6 31 life-sustaining procedures pursuant to a declaration or out-
6 32 of-hospital do-not-resuscitate order and in accordance with
6 33 this chapter does not, for any purpose, constitute a suicide.
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~~or~~

- homicide, or dependent adult abuse.

6 35 2. The

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- executing of a declaration pursuant to

7 1 section [144A.3](#) or an out-of-hospital do-not-resuscitate order
7 2 pursuant to section [144A.7A](#) does not affect in any manner the
7 3 sale, procurement, or issuance of any policy of life
7 4 insurance, nor shall it be deemed to modify the terms of an
7 5 existing policy of life insurance. No policy of life
7 6 insurance is legally impaired or invalidated in any manner by
7 7 the withholding or withdrawal of life-sustaining procedures
7 8 pursuant to this chapter, notwithstanding any term of the
7 9 policy to the contrary.

7 10 3. A physician, health care provider, health care service
7 11 plan, insurer issuing disability insurance, self-insured
7 12 employee welfare benefit plan, or nonprofit hospital plan
7 13 shall not require any person to execute a declaration or an
7 14 out-of-hospital do-not-resuscitate order as a condition for
7 15 being insured for, or receiving, health care services.

7 16 4. This chapter creates no presumption concerning the
7 17 intention of an individual who has not executed a declaration
7 18 or an out-of-hospital do-not-resuscitate order with respect to
7 19 the use, withholding, or withdrawal of life-sustaining
7 20 procedures in the event of a terminal condition.

7 21 Sec. 11. APPLICATION TO EXISTING ORDERS. An out-of-
7 22 hospital do-not-resuscitate order or similar order executed
7 23 prior to July 1, 2002, is valid and shall be honored in

7 24 accordance with the then-applicable provisions of law.

7 25 EXPLANATION

7 26 This bill provides for the development and use of out-of-
7 27 hospital do-not-resuscitate orders. The bill provides
7 28 definitions, including definitions of "emergency medical care
7 29 provider", "out-of-hospital do-not-resuscitate order", and
7 30 "resuscitation". The bill also provides the process for
7 31 issuing an out-of-hospital do-not-resuscitate order, directs
7 32 the Iowa department of public health to develop a uniform form
7 33 and personal identifier for the orders, specifies the contents
7 34 of the form, and establishes the scope and limitations of the
7 35 order. The bill specifies provisions for the revocation of an
8 1 order, provides immunity for persons acting in compliance in
8 2 entering, executing, or otherwise participating in an order,
8 3 and provides for the application of penalties and general
8 4 provisions relating to the orders. With regard to penalties,
8 5 the bill provides that any person who willfully conceals,
8 6 withholds, cancels, destroys, alters, defaces, or obliterates
8 7 an out-of-hospital do-not-resuscitate order, or out-of-
8 8 hospital do-not-resuscitate identifier of a patient without
8 9 the patient's consent, or who falsifies or forges a revocation
8 10 of an out-of-hospital do-not-resuscitate order of another, is
8 11 guilty of a serious misdemeanor. Additionally, any person who
8 12 falsifies or forges an out-of-hospital do-not-resuscitate
8 13 order of another, or willfully conceals or withholds personal
8 14 knowledge of or delivery of a revocation with the intent to
8 15 cause a withholding or withdrawal of life-sustaining
8 16 procedures, is guilty of a serious misdemeanor. A serious
8 17 misdemeanor is punishable by confinement for no more than one
8 18 year and a fine of at least \$250 but not more than \$1,500.
8 19 The bill also provides that existing orders or similar
8 20 orders existing prior to July 1, 2002, are valid and are to be
8 21 honored in accordance with the laws that were applicable at
8 22 the time of execution of the order.

8 23 LSB 6053SC 79

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