

House File 2305 - Introduced

HOUSE FILE 2305
BY COMMITTEE ON HEALTH AND HUMAN
SERVICES

(SUCCESSOR TO HF 708)

A BILL FOR

1 An Act relating to health care decisions related to palliative
2 care, hospice programs, life-sustaining procedures, and
3 out-of-hospital do-not-resuscitate orders.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 135J.1, Code 2026, is amended to read as
2 follows:

3 **135J.1 Definitions.**

4 For the purposes of this chapter unless otherwise defined:

5 1. "Attending ~~physician~~ provider" means a physician licensed
6 ~~pursuant to chapter 148 or a physician assistant licensed~~
7 ~~pursuant to chapter 148C,~~ physician assistant, or an advanced
8 registered nurse practitioner who is licensed in this state.

9 2. "Attorney in fact" means an individual who is designated
10 by a durable power of attorney for health care as an agent
11 to make health care decisions on behalf of a patient and has
12 consented to act in that capacity.

13 3. "Close adult friend" means a friend of a patient to whom
14 all of the following apply:

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

16 b. The individual has shown special care and concern for the
17 patient.

18 c. The individual maintains regular contact with the patient
19 and is familiar with the patient's health, activities, and
20 beliefs.

21 d. The individual has provided an affidavit to the patient's
22 attending provider that states that the individual is willing and
23 able to be involved in the patient's care.

24 ~~2.~~ 4. "Core services" means physician services, nursing
25 services, medical social services, counseling services, and
26 volunteer services. These ~~core~~ services, as well as others
27 deemed necessary by the hospice in delivering safe and
28 appropriate care to ~~its ease load~~ the hospice's hospice patients,
29 can be provided through either direct or indirect arrangement by
30 the hospice.

31 ~~3.~~ 5. "Department" means the department of inspections,
32 appeals, and licensing.

33 6. "Durable power of attorney for health care" means a
34 document authorizing an attorney in fact to make health care
35 decisions for a patient if the patient is unable, in the

1 judgment of the patient's attending provider, to make health care
2 decisions.

3 4. 7. "*Hospice patient*" or "*patient*" means a ~~diagnosed~~
4 ~~terminally ill person~~ an individual with an anticipated life
5 expectancy of six months or less, as certified by the attending
6 ~~physician~~ provider, who, alone or in conjunction with a unit of
7 care ~~as defined in subsection 9~~, has voluntarily requested and
8 received admission into ~~the~~ a hospice program. ~~If the patient~~
9 ~~is unable to request admission, a family member may voluntarily~~
10 ~~request and receive admission on the patient's behalf.~~

11 5. 8. "*Hospice patient's family*" means the immediate kin of
12 ~~the~~ a hospice patient, including a spouse, parent, stepparent,
13 brother, sister, stepbrother, stepsister, child, or stepchild.
14 Additional relatives or individuals with significant personal
15 ties to the hospice patient may be included in the hospice
16 patient's family.

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

29 7. 10. "*Interdisciplinary team*" means the hospice patient
30 and the hospice patient's family, the attending ~~physician~~
31 provider, and all of the following individuals trained to serve
32 with a licensed hospice program:

33 a. A licensed physician pursuant to chapter 148.

34 b. A licensed registered nurse pursuant to chapter 152.

35 c. An individual with at least a baccalaureate degree in the

1 field of social work providing medical-social services.

2 ~~d. Trained hospice volunteers~~ Volunteer services.

3 e. As deemed appropriate by the hospice, physician
4 assistants, providers of special services including but not
5 limited to a spiritual counselor, ~~a pharmacist~~ pharmacists, or
6 professionals in the fields of mental health may be included on
7 the interdisciplinary team.

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

22 12. "Serious illness" means a health condition that carries a
23 high risk of mortality and either negatively impacts a person's
24 daily functioning or quality of life, or excessively strains the
25 person's caregivers.

26 13. "Terminal condition" means the same as defined in section
27 144A.2.

28 ~~9.~~ 14. "Unit of care" means the a hospice patient and the
29 hospice patient's family within a hospice program.

30 ~~10.~~ 15. "Volunteer services" means the services provided by
31 individuals who have successfully completed a training program
32 developed by a licensed hospice program.

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

35 **135J.3 Basic requirements.**

1 A licensed hospice program shall include:

2 1. A planned program of hospice care, the medical components
3 of which shall be under the direction of an attending ~~physician~~
4 provider.

5 2. Centrally administered, coordinated ~~hospice~~ core services
6 provided in home, outpatient, or institutional settings.

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

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

12 5. An interdisciplinary team which develops, implements, and
13 evaluates the hospice plan of care for ~~the patient and family~~ a
14 unit of care.

15 6. Bereavement services.

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

18 8. An ongoing system of quality assurance and utilization
19 review.

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

22 A patient who has a terminal condition, and who is comatose,
23 incompetent, or otherwise physically or mentally incapable of
24 communication, and who has not expressed their desire for
25 palliative care or a hospice program, may be placed in a hospice
26 program by any of the following individuals, who shall be guided
27 by the express or implied intentions of the patient, in the
28 following order of priority if no individual in the previous
29 priority is reasonably available, willing, and competent to make
30 the decision.

31 1. The patient's attorney in fact.

32 2. The guardian of the patient appointed pursuant to chapter
33 633. If the patient has appointed more than one guardian with
34 equal responsibilities, the decision agreed to by a majority of
35 the guardians. If no majority consensus is achieved by the

1 guardians, a court order shall be required.

2 3. The patient's spouse.

3 4. An adult child of the patient or, if the patient has more
4 than one adult child, the decision agreed to by a majority of the
5 adult children who are reasonably available for consultation with
6 the patient's attending provider.

7 5. A parent of the patient, or if the patient has more than
8 one parent, the decision agreed to by both parents if both
9 are reasonably available for consultation with the patient's
10 attending provider.

11 6. An adult sibling of the patient, or if the patient has
12 more than one sibling, the decision agreed to by a majority of
13 the adult siblings who are reasonably available for consultation
14 with the patient's attending provider.

15 7. The decision agreed to by a majority of the patient's
16 relatives, including but not limited to grandchildren,
17 grandparents, aunts, uncles, nieces, nephews, stepchildren,
18 stepparents, and stepsiblings who are at least eighteen years of
19 age and reasonably available for consultation with the patient's
20 attending provider.

21 8. A close adult friend.

22 Sec. 4. Section 144A.2, Code 2026, is amended to read as
23 follows:

24 **144A.2 Definitions.**

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

26 1. "Adult" means an individual eighteen years of age or
27 older.

28 2. "Advanced registered nurse practitioner" means the same as
29 defined in section 152.1.

30 ~~2. 3. "Attending physician provider" means the physician~~
31 ~~selected by, or assigned to, the patient who has primary~~
32 ~~responsibility for the treatment and care of the patient same as~~
33 ~~defined in section 135J.1.~~

34 ~~3. 4. "Attending physician assistant" means the physician~~
35 ~~assistant selected by, or assigned to, the patient who has~~

1 ~~primary responsibility for the treatment and care of the patient~~

2 "Attorney in fact" means the same as defined in section 135J.1.

3 5. "Close adult friend" means the same as defined in section
4 135J.1.

5 ~~4.~~ 6. "Declaration" means a document executed in accordance
6 with the requirements of section 144A.3.

7 ~~5.~~ 7. "Department" means the department of health and human
8 services.

9 8. "Durable power of attorney for health care" means the same
10 as defined in section 135J.1.

11 ~~6.~~ 9. "Emergency medical care provider" means emergency
12 medical care provider as defined in section 147A.1.

13 ~~7.~~ 10. "Health care provider" means a person, including an
14 emergency medical care provider, who is licensed, certified, or
15 otherwise authorized or permitted by the law of this state to
16 administer health care in the ordinary course of business or in
17 the practice of a profession.

18 ~~8.~~ 11. "Hospital" means hospital as defined in section
19 135B.1.

20 ~~9.~~ 12. a. "Life-sustaining procedure" means any medical
21 procedure, treatment, or intervention, including resuscitation,
22 which meets both of the following requirements:

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

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

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

32 ~~10.~~ 13. "Out-of-hospital do-not-resuscitate order" means
33 a written order signed by a ~~physician~~ an attending provider,
34 executed in accordance with the requirements of section 144A.7A
35 and issued consistent with this chapter, that directs the

1 withholding or withdrawal of resuscitation when an adult patient
2 in a terminal condition is outside the hospital.

3 ~~11.~~ 14. "Physician" means a person licensed to practice
4 medicine and surgery or osteopathic medicine and surgery in this
5 state.

6 ~~12.~~ 15. "Physician assistant" means a person licensed to
7 practice as a physician assistant in this state.

8 ~~13.~~ 16. "Qualified patient" means a patient who has executed
9 a declaration or an out-of-hospital do-not-resuscitate order in
10 accordance with this chapter and who has been determined by the
11 attending physician to be in a terminal condition.

12 ~~14.~~ 17. "Resuscitation" means any medical intervention that
13 utilizes mechanical or artificial means to sustain, restore, or
14 supplant a spontaneous vital function, including but not limited
15 to chest compression, defibrillation, intubation, and emergency
16 drugs intended to alter cardiac function or otherwise to sustain
17 life.

18 ~~15.~~ 18. "Terminal condition" means an incurable or
19 irreversible condition that, without the administration of
20 life-sustaining procedures, will, in the opinion of the attending
21 physician, result in death within a relatively short period of
22 time or a state of permanent unconsciousness from which, to a
23 reasonable degree of medical certainty, there can be no recovery.

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

26 3. It is the responsibility of the declarant to provide the
27 declarant's attending ~~physician or health care~~ provider with the
28 declaration. An attending ~~physician or health care~~ provider may
29 presume, in the absence of actual notice to the contrary, that
30 the declaration complies with this chapter and is valid.

31 5. A declaration executed pursuant to this chapter may, but
32 need not, be in the following form:

33 **DECLARATION**

34 If I should have an incurable or irreversible condition that
35 will result either in death within a relatively short period

1 of time or a state of permanent unconsciousness from which,
2 to a reasonable degree of medical certainty, there can be no
3 recovery, it is my desire that my life not be prolonged by the
4 administration of life-sustaining procedures. If I am unable to
5 participate in my health care decisions, I direct my attending
6 physician provider to withhold or withdraw life-sustaining
7 procedures that merely prolong the dying process and are not
8 necessary to my comfort or freedom from pain.

9 Sec. 6. Section 144A.4, Code 2026, is amended to read as
10 follows:

11 **144A.4 Revocation of declaration.**

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

19 2. The attending ~~physician or attending physician assistant~~
20 provider shall make the revocation a part of the declarant's
21 medical record.

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

24 **144A.5 Determination of terminal condition.**

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

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

32 2. The declaration of a qualified patient known to the
33 attending physician provider to be pregnant shall not be in
34 effect as long as the fetus could develop to the point of live
35 birth with continued application of life-sustaining procedures.

1 However, the provisions of this subsection do not impair any
2 existing rights or responsibilities that any person may have
3 in regard to the withholding or withdrawal of life-sustaining
4 procedures.

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

7 1. Life-sustaining procedures may be withheld or withdrawn
8 from a patient who is in a terminal condition and who is
9 comatose, incompetent, or otherwise physically or mentally
10 incapable of communication, and who has not made a declaration
11 in accordance with ~~this chapter~~ section 144A.3 if there is
12 consultation and written agreement for the withholding or the
13 withdrawal of life-sustaining procedures between the attending
14 physician provider, another physician, physician assistant, or
15 advanced registered nurse practitioner, and any of the following
16 individuals, who shall be guided by the express or implied
17 intentions of the patient, in the following order of priority
18 if no individual in a ~~prior class~~ the previous priority is
19 reasonably available, willing, and competent to ~~act~~ make a
20 decision:

21 a. The attorney in fact designated to make ~~treatment~~
22 decisions for the patient should such person be diagnosed as
23 suffering from a terminal condition, if the designation is in
24 writing and complies with chapter 144B.

25 b. The guardian ~~of the person~~ of the patient ~~if one has~~
26 ~~been appointed, provided pursuant to chapter 633, or the guardian~~
27 of the patient who has obtained court approval ~~is obtained in~~
28 accordance with section 232D.401, subsection 4, paragraph "a", ~~or~~
29 ~~section 633.635, subsection 3, paragraph "b", subparagraph (1).~~
30 This paragraph does not require the appointment of a guardian in
31 order for a ~~treatment~~ decision to be made under this section.

32 c. The patient's spouse.

33 d. An adult child of the patient or, if the patient has more
34 than one adult child, the decision agreed to by a majority of the
35 adult children who are reasonably available for consultation with

1 the patient's attending provider.

2 e. A parent of the patient, or parents if both the patient
3 has more than one parent, the decision agreed to by both parents
4 if both are reasonably available for consultation with the
5 patient's attending provider.

6 f. An adult sibling of the patient or, if the patient
7 has more than one adult sibling, the decision agreed to by a
8 majority of the adult siblings who are reasonably available for
9 consultation with the patient's attending provider.

10 g. The decision agreed to by a majority of the patient's
11 relatives, including but not limited to grandchildren,
12 grandparents, aunts, uncles, nieces, nephews, stepchildren,
13 stepparents, and stepsiblings who are reasonably available for
14 consultation with the patient's attending provider.

15 h. A close adult friend.

16 2. When a decision is made pursuant to this section to
17 withhold or withdraw life-sustaining procedures, there shall be
18 a witness present at the time of the consultation with the
19 patient's attending provider when that the decision is made. The
20 witness shall be an adult who is not related to the patient
21 by blood, marriage, or adoption within the third degree of
22 consanguinity and who is not a health care provider or an
23 employee of a health care provider involved in the patient's
24 care.

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

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

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

- 1 a. The patient's name.
- 2 b. The patient's date of birth.
- 3 c. The name of the individual authorized to act on the
- 4 patient's behalf, if applicable.
- 5 d. A statement that the patient is in a terminal condition.
- 6 e. The ~~physician's or physician assistant's~~ attending
- 7 provider's signature.
- 8 f. The date the form is signed.
- 9 g. A concise statement of the nature and scope of the order.
- 10 h. Any other information necessary to provide clear and
- 11 reliable instructions to a health care provider.

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

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

14 1. Resuscitation may be withheld or withdrawn from a patient

15 who has a terminal illness, and who is comatose, incompetent,

16 or otherwise physically or mentally incapable of communication,

17 and who has not executed an out-of-hospital do-not-resuscitate

18 order, if there is consultation and written agreement for the

19 withholding or the withdrawal of resuscitation between the

20 attending provider physician and another physician, physician

21 assistant, or advanced registered nurse practitioner and any of

22 the following individuals, who shall be guided by the express

23 or implied intentions of the patient, in the following order of

24 priority if no individual in the previous priority is reasonably

25 available, willing, and competent to make a decision.

- 26 a. The patient's attorney in fact.
- 27 b. The guardian of the patient appointed pursuant to chapter
- 28 633. If the patient is appointed more than one guardian with
- 29 equal responsibilities, the decision agreed to by a majority of
- 30 the guardians. If no consensus is achieved by the guardians, a
- 31 court order shall be required.
- 32 c. The patient's spouse.
- 33 d. An adult child of the patient or, if the patient has more
- 34 than one adult child, the decision agreed to by a majority of the
- 35 adult children who are reasonably available for consultation with

1 the patient's attending provider.

2 e. A parent of the patient or, if the patient has more than
3 one parent, the decision agreed to by both of the parents if
4 both are reasonably available for consultation with the patient's
5 attending provider.

6 f. An adult sibling of the patient or, if the patient
7 has more than one adult sibling, the decision agreed to by a
8 majority of the adult siblings who are reasonably available for
9 consultation with the patient's attending provider.

10 g. The decision agreed to by a majority of the patient's
11 relatives, including but not limited to grandchildren,
12 grandparents, aunts, uncles, nieces, nephews, stepchildren,
13 stepparents, and stepsiblings who are reasonably available for
14 consultation with the patient's attending provider.

15 h. A close adult friend.

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

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

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

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

32 **144B.1 Definitions.**

33 For purposes of this chapter, unless the context otherwise
34 requires:

35 1. "Attending provider" means the same as defined in section

1 135J.1.

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

6 ~~2.~~ 3. "Designee" means a person named in a declaration under
7 chapter 144C.

8 ~~3.~~ 4. "Durable power of attorney for health care" means a
9 document authorizing an attorney in fact to make health care
10 decisions for the principal if the principal is unable, in
11 the judgment of the attending ~~physician or attending physician~~
12 ~~assistant~~ provider, to make health care decisions.

13 ~~4.~~ 5. "Health care" means any care, treatment, service,
14 or procedure to maintain, diagnose, or treat an individual's
15 physical or mental condition. "Health care" does not include the
16 provision of nutrition or hydration except when they are required
17 to be provided parenterally or through intubation.

18 ~~5.~~ 6. "Health care decision" means the consent, refusal of
19 consent, or withdrawal of consent to health care.

20 ~~6.~~ 7. "Health care provider" means a person who is licensed,
21 certified, or otherwise authorized or permitted by the ~~law~~ laws
22 of this state to administer health care in the ordinary course of
23 business or in the practice of a profession.

24 ~~7.~~ 8. "Principal" means a person age eighteen or older who
25 has executed a durable power of attorney for health care.

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

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

31 I hereby designate as my attorney in fact (my agent)
32 and give to my agent the power to make health care decisions for
33 me. This power exists only when I am unable, in the judgment of
34 my attending ~~physician or attending physician~~ assistant provider,
35 to make those health care decisions. The attorney in fact must

1 act consistently with my desires as stated in this document or
2 otherwise made known.

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

8 This document gives my agent power to make health care
9 decisions on my behalf, including to consent, to refuse to
10 consent, or to withdraw consent to the provision of any care,
11 treatment, service, or procedure to maintain, diagnose, or treat
12 a physical or mental condition. This power is subject to any
13 statement of my desires and any limitations included in this
14 document.

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

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

19 1. Unless the district court sitting in equity specifically
20 finds that the attorney in fact is acting in a manner contrary
21 to the wishes of the principal or the durable power of attorney
22 for health care provides otherwise, an attorney in fact who is
23 known to the health care provider to be available and willing to
24 make health care decisions has priority over any other person,
25 including a guardian appointed pursuant to chapter 633, to act
26 for the principal in all matters of health care decisions. The
27 attorney in fact has authority to make a particular health care
28 decision only if the principal is unable, in the judgment of the
29 attending ~~physician or attending physician assistant~~ provider, to
30 make the health care decision. If the principal objects to a
31 decision to withhold or withdraw health care, the principal shall
32 be presumed to be able to make a decision.

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

35 16. "*Licensed hospice program*" means a licensed hospice

1 program as defined described in section 135J.1.

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

4 NEW SUBSECTION. 6. Notwithstanding subsection 2 or 3, a
5 guardian may make a decision for a protected person pursuant to
6 sections 135J.3A, 144A.7, and 144A.7B without court approval.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to health care decisions related to
11 palliative care, hospice programs, life-sustaining procedures,
12 and out-of-hospital do-not-resuscitate orders.

13 Current law requires a hospice program to provide palliative
14 care in order to be eligible for a license. The bill removes
15 this requirement and requires a hospice program to provide care
16 directed at symptom management to be eligible to receive a
17 license.

18 Under the bill, if a patient who has a terminal condition,
19 is comatose, incompetent, or incapable of communication, and
20 has not expressed their desire regarding palliative care or a
21 hospice program, certain individuals in order of priority have
22 the authority to make the decision to place the patient in a
23 hospice program. The individuals who have the authority to make
24 such a decision include the patient's attorney in fact, guardian,
25 spouse, adult child, parent, adult sibling, and close adult
26 friend. The bill defines "close adult friend". An individual
27 making a decision for such a patient shall be guided by the
28 express or implied intention of the patient.

29 Current law provides that certain individuals in order of
30 priority, including a patient's attorney in fact, guardian,
31 spouse, adult child, parent, and adult sibling, have the
32 authority to withhold or withdraw life-sustaining procedures
33 from a patient who has a terminal condition, is comatose,
34 incompetent, or incapable of communication, and who has not made
35 a declaration for life-sustaining procedures. The bill broadens

1 these categories to include relatives of the patient and a close
2 adult friend of the patient. The bill provides restrictions on
3 who may act as a witness to the consultation when the decision is
4 made with the patient's attending provider, rather than with the
5 patient's attending physician as is required under current law.
6 The bill defines "attending provider" as a physician, physician
7 assistant, or an advanced registered nurse practitioner.

8 Current law requires a patient's attending physician to
9 receive and record in the patient's medical record a declaration
10 for life-sustaining procedures on behalf of a patient. If
11 a patient wants to revoke this declaration, a revocation is
12 only effective as to the patient's attending physician when
13 it is communicated to the patient's attending physician. Once
14 the patient's attending physician receives a declaration, the
15 attending physician must determine if the patient has a terminal
16 condition. Under the bill, a patient's attending provider is
17 required to receive and record in the patient's medical record
18 any declaration for life-sustaining procedures on behalf of a
19 patient. A revocation is only effective as to the patient's
20 attending provider when it is communicated to the patient's
21 attending provider. Once the patient's attending provider
22 receives a declaration, the attending provider must determine if
23 the patient has a terminal condition.

24 Under current law, an out-of-hospital do-not-resuscitate order
25 for a patient is required to be issued and signed by a patient's
26 attending physician. Under the bill, an out-of-hospital
27 do-not-resuscitate order is required to be issued and signed by
28 a patient's attending provider.

29 The bill provides that resuscitation may be withheld or
30 withdrawn from a patient who has a terminal condition, who is
31 comatose, incompetent, or incapable of communication, and who
32 has not executed an out-of-hospital do-not-resuscitate order if
33 there is consultation and written agreement to do so between the
34 patient's attending provider and the patient's attorney in fact,
35 guardian, spouse, adult child, parent, adult sibling, relative,

1 or close adult friend. An individual making a health care
2 decision for such a patient shall be guided by the express or
3 implied intention of the patient in making the decision. A
4 witness, as specified in the bill, shall be present at the time
5 of consultation with the patient's attending provider when a
6 decision is made to withdraw or withhold resuscitation.

7 Under current law, the authority provided to an agent under
8 a durable power of attorney for health care (POA) executed by
9 a patient exists only when the patient's attending physician
10 determines that the patient is unable to make health care
11 decisions. The agent can consent to a patient's attending
12 physician withholding life-sustaining care to the patient. The
13 bill provides that the authority provided to an agent under a POA
14 executed by a patient exists only when the patient's attending
15 provider determines that the patient is unable to make health
16 care decisions.

17 Current law requires a guardian to obtain court approval
18 before the guardian may consent to the withholding or withdrawal
19 of life-sustaining procedures for a protected person. The bill
20 makes an exception to this requirement and allows a guardian
21 to make a decision for the protected person relating to hospice
22 care, life-sustaining procedures, and resuscitation without court
23 approval in circumstances detailed in the bill.