

Senate File 2198 - Introduced

SENATE FILE 2198
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3020)

A BILL FOR

1 An Act relating to the authority of an attorney in fact under a
2 durable power of attorney for health care.

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

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1 Section 1. Section 144B.6, subsection 2, Code 2026, is
2 amended to read as follows:

3 2. In exercising the authority under the durable power of
4 attorney for health care, the attorney in fact has a duty
5 to act in accordance with the desires of the principal as
6 expressed in the durable power of attorney for health care,
7 a declaration executed by the principal pursuant to section
8 144A.3, or otherwise made known to the attorney in fact at
9 any time. A declaration executed by the principal pursuant to
10 the life-sustaining procedures Act, chapter 144A, shall not be
11 interpreted as expressing an intent to prohibit the withdrawal of
12 hydration or nutrition when required to be provided parenterally
13 or through intubation and shall not otherwise restrict the The
14 authority of the attorney in fact shall not be restricted by the
15 desires of the principal as expressed verbally to a person other
16 than the attorney in fact or in any other document unless either
17 the declaration or, in a separate section of the durable power
18 of attorney for health care, the principal expressly provides
19 otherwise states that the durable power of attorney for health
20 care is limited and includes the limitations on the authority of
21 the attorney in fact. If the principal's desires are unknown,
22 the attorney in fact has a duty to act in the best interests
23 of the principal, taking into account the principal's overall
24 medical condition and prognosis.

25 EXPLANATION

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

28 This bill relates to the authority of an attorney in fact
29 (attorney) under a durable power of attorney for health care
30 (durable power of attorney).

31 Current law provides that an attorney under a durable power
32 of attorney has the duty to act in accordance with the desires
33 expressed in the durable power of attorney or made known to
34 the attorney by the principal who executed the durable power
35 of attorney. If the principal executes a declaration related

1 to life-sustaining procedures, the declaration shall not be
2 interpreted to prohibit the attorney from withdrawing hydration
3 or nutrition in certain circumstances, or otherwise restrict the
4 authority of the attorney.

5 The bill amends the attorney's duty by requiring the attorney
6 to act in accordance with the desires of the principal as
7 expressed in the durable power of attorney, a declaration
8 relating to the use of life-sustaining procedures, or otherwise
9 made known to the attorney by the principal. The bill provides
10 that the authority of the attorney shall not be restricted by the
11 principal's desires expressed verbally to a person other than the
12 attorney, or in another document, unless the document authorizing
13 the durable power of attorney states in a separate section
14 that the durable power of attorney is limited, and includes the
15 limitations on the attorney's authority.

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