

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 133

AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-296.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 296.3. "Psychiatric advance directive", for purposes of IC 16-36-1.5 and IC 16-36-1.7, has the meaning set forth in IC 16-36-1.7-1.**

SECTION 2. IC 16-36-1.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **(a) This section applies to a patient who:**

- (1) receives mental health services; and
- (2) is mentally incompetent.

(b) A patient described in subsection (a) shall provide consent for mental health treatment through the informed consent of one (1) of the following:

- (1) The patient's legal guardian or other court appointed representative.
- (2) The patient's health care representative under IC 16-36-1.
- (3) An attorney in fact for health care appointed under IC 30-5-5-16.
- (4) The patient's health care representative acting in accordance with the patient's psychiatric advance directive as expressed in a psychiatric advance directive executed under IC 16-36-1.7.**

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SECTION 3. IC 16-36-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 1.7. Psychiatric Advance Directives

Sec. 0.5. This chapter does not apply when an individual is detained or committed under IC 12-26-4, IC 12-26-5, IC 12-26-6, or IC 12-26-7.

Sec. 1. As used in this chapter, "psychiatric advance directive" means a written instrument that expresses the individual's preference and consent to the administration of treatment measures for a specific diagnosis for the care and treatment of the individual's mental illness during subsequent periods of incapacity.

Sec. 2. (a) An individual who has capacity may execute a psychiatric advance directive.

(b) The psychiatric advance directive must include the following:

- (1) The name of the individual entering into the psychiatric advance directive.**
- (2) The name of the treatment program and the sponsoring facility or institution in which the individual is enrolled, if applicable.**
- (3) The name, address, and telephone number of:**
 - (A) the individual's treating physician; or**
 - (B) other treating mental health personnel.**
- (4) The signature of the individual entering into the psychiatric advance directive.**
- (5) The date on which the individual signed the psychiatric advance directive.**
- (6) The name, address, and telephone number of the designated health care representative.**
- (7) The signature of the psychiatrist treating the individual entering into the psychiatric advance directive, attesting to:**
 - (A) the appropriateness of the individual's preferences stated in the psychiatric advance directive; and**
 - (B) the capacity of the individual entering into the psychiatric advance directive.**

(c) The psychiatric advance directive must comply with and is subject to the requirements and provisions of IC 16-36-1.

Sec. 3. An individual may specify in the psychiatric advance directive treatment measures, including:

- (1) admission to an inpatient setting;**
- (2) the administration of prescribed medication:**

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- (A) orally; or
- (B) by injection;
- (3) physical restraint;
- (4) seclusion;
- (5) electroconvulsive therapy; or
- (6) mental health counseling;

for the care and treatment of the individual's mental illness during a period when the individual is incapacitated.

Sec. 4. A person who:

- (1) treats an individual who has executed a psychiatric advance directive; and
- (2) is not aware that the individual being treated has executed a valid psychiatric advance directive;

is not subject to civil or criminal liability based on an allegation that the person did not comply with the psychiatric advance directive.

Sec. 5. This chapter does not preclude an attending physician from treating the patient in a manner that is of the best interest of the patient or another individual.

SECTION 4. IC 34-30-2-71.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 71.5. IC 16-36-1.7-4 (Concerning a person who is not aware of, and does not comply with, a psychiatric advance directive).**

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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