
HOUSE BILL No. 1114

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-36-6; IC 34-30-2-75.5.

Synopsis: Physician order for scope of treatment forms. Establishes a process for the execution of a physician order for scope of treatment (POST) form by an individual and the individual's treating physician to indicate treatment the individual would like to have or have withheld under specified circumstances. Requires the state department of health to: (1) develop and distribute the POST form and specifies provisions to be included in the form; and (2) report to the health finance commission before October 1, 2014, and annually thereafter, concerning the POST form. Allows for the modification or revocation of the POST form. Provides civil and criminal immunity for certain actions taken by a health care provider under an executed POST form.

Effective: July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Public Health.

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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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1114

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

- 1 SECTION 1. IC 16-18-2-287.2 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2012]: **Sec. 287.2. "POST form", for**
- 4 **purposes of IC 16-36-6, has the meaning set forth in IC 16-36-6-2.**
- 5 SECTION 2. IC 16-18-2-317 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 317. (a)
- 7 "Representative", for purposes of IC 16-36-1, has the meaning set forth
- 8 in IC 16-36-1-2.
- 9 (b) "Representative", for purposes of IC 16-36-5, has the meaning
- 10 set forth in IC 16-36-5-9.
- 11 (c) **"Representative", for purposes of IC 16-36-6, has the**
- 12 **meaning set forth in IC 16-36-6-3.**
- 13 SECTION 3. IC 16-36-6 IS ADDED TO THE INDIANA CODE AS
- 14 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 15 1, 2012]:
- 16 **Chapter 6. Physician Order for Scope of Treatment (POST)**
- 17 **Sec. 1. This chapter applies after June 30, 2013.**



1 **Sec. 2. As used in this chapter, "POST form" refers to a**
 2 **physician order for scope of treatment (POST) form executed**
 3 **under this chapter.**

4 **Sec. 3. As used in this chapter, "representative" refers to the**
 5 **following:**

6 (1) **An individual appointed to consent to health care of**
 7 **another individual under IC 16-36-1.**

8 (2) **An attorney in fact authorized under IC 30-5-5-16 and**
 9 **IC 30-5-5-17 to consent to, or refuse, health care of another**
 10 **individual.**

11 **Sec. 4. (a) An:**

12 (1) **individual who:**

13 (A) **is at least eighteen (18) years of age;**

14 (B) **is of sound mind; and**

15 (C) **has:**

16 (i) **a chronic progressive illness;**

17 (ii) **a terminal illness;**

18 (iii) **an illness that may result in losing the individual's**
 19 **capacity to make decisions in the next year; or**

20 (iv) **a strong desire to define the individual's preferences**
 21 **of care in the individual's present state of health; or**

22 (2) **individual's representative, if the individual lacks**
 23 **capacity;**

24 **and the individual's treating physician licensed under IC 25-22.5**
 25 **may execute a POST form described in section 5 of this chapter.**

26 (b) **An individual described in subsection (a)(1) or (a)(2) and the**
 27 **individual's treating physician or physician designee must do the**
 28 **following for a POST form to be effective:**

29 (1) **Discuss the medical interventions and options available to**
 30 **the individual based on the individual's health.**

31 (2) **Complete the POST form based on the individual's**
 32 **preferences determined during the discussion in subdivision**
 33 **(1).**

34 **The individual's treating physician must sign and date the POST**
 35 **form for the POST form to be effective.**

36 (c) **A copy of the executed POST form shall be maintained in the**
 37 **patient's medical file.**

38 **Sec. 5. (a) The state department shall develop a standardized**
 39 **POST form and distribute the POST form.**

40 (b) **The POST form developed under this section must include**
 41 **the following:**

42 (1) **A provision allowing the individual to specify whether the**

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1 individual would like cardiopulmonary resuscitation (CPR) to
 2 be performed if the individual is in cardiopulmonary arrest.

3 (2) A provision allowing the individual to specify the types of
 4 medical intervention the individual desires, including the
 5 following:

6 (A) Comfort measures only.

7 (B) Limited additional interventions that are specified.

8 (C) Full treatment.

9 (3) A provision allowing the individual to specify whether the
 10 individual would like to receive artificially administered
 11 nutrition and the time frame for providing the artificially
 12 administered nutrition.

13 (4) A provision allowing the individual to specify whether the
 14 individual would like to receive administered antibiotics and
 15 the time frame for providing the administered antibiotics.

16 (5) A signature line for the physician, including the following
 17 information:

18 (A) The physician's printed name.

19 (B) The physician's telephone number.

20 (C) The physician's medical license number.

21 (D) The date of the physician's signature.

22 As used in this subdivision, "signature" includes an electronic
 23 or physician controlled stamp signature.

24 (6) A signature line for the patient or the patient's
 25 representative, including the following information:

26 (A) The individual's printed name.

27 (B) The relationship of the individual signing the POST
 28 form to the individual to be covered by the POST form.

29 (C) The date of the individual's signature.

30 (7) A statement that the POST form must accompany the
 31 individual whenever the individual is transferred or
 32 discharged.

33 **Sec. 6. (a) An individual described in section 4(a)(1) or 4(a)(2)**
 34 **of this chapter may modify or revoke a POST form by any of the**
 35 **following:**

36 (1) A signed and dated writing indicating that the POST form
 37 is being revoked or modified.

38 (2) Physical cancellation of the POST form and any orders
 39 that accompany the POST form.

40 (3) An oral expression of an intent to revoke or modify the
 41 POST form.

42 (b) A revocation or modification of a POST form under this

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1 section is effective upon communication of the revocation or
2 modification to a health care provider.

3 (c) Upon communication of the revocation or modification of a
4 POST form under subsection (b), the health care provider shall
5 immediately notify the individual's treating physician, if known, of
6 the revocation or modification.

7 (d) Upon notification of the revocation or modification of a
8 POST form to the treating physician under subsection (c), the
9 individual's treating physician shall immediately do the following:

10 (1) Include a written, signed notation of the POST form
11 revocation or modification in the patient's medical file with
12 the following information:

13 (A) The time, date, and place of revocation or modification
14 of the POST form by the individual or representative.

15 (B) The time, date, and place that the treating physician
16 was notified of the revocation or modification of the POST
17 form.

18 (2) Void the POST form, and any orders that accompany the
19 POST form, that is being revoked or modified, inserting the
20 word "VOID" across each page of the POST form in the
21 individual's medical file.

22 (3) Notify any health care personnel responsible for the care
23 of the individual of the revocation or modification of the
24 POST order.

25 (4) If the POST form is being modified, document the change
26 in the individual's medical file and execute a new POST form
27 that includes the modifications as soon as possible.

28 A modified POST form under this section must meet the POST
29 form requirements set forth in section 5 of this chapter.

30 Sec. 7. If a POST form executed under this chapter is
31 inconsistent with another health care directive, including:

32 (1) a living will under IC 16-36-4;

33 (2) a life prolonging procedure declaration under IC 16-36-4;
34 or

35 (3) an out of hospital do not resuscitate declaration under
36 IC 16-36-5;

37 the most recently executed document or request has priority to the
38 extent of the inconsistency.

39 Sec. 8. A health care provider who is unable to implement or
40 carry out the orders of a POST form for any reason, including
41 conflicting religious or moral beliefs, shall transfer care of the
42 patient to another physician who is able to implement the

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1 individual's directives or honor the POST form.

2 **Sec. 9. (a)** A health care provider is not required to provide
3 medical treatment that is contrary to a patient's POST order. A
4 health care provider may presume that a completed POST form
5 that meets the requirements of this chapter is valid and enforceable
6 unless the health care provider has knowledge or evidence to the
7 contrary.

8 **(b)** A health care provider or an employee under the direction
9 of a health care provider who acts in good faith to carry out the
10 orders on a POST form that the health care provider believes is
11 valid is not subject to criminal or civil liability and may not be
12 found to have committed an act of unprofessional conduct.

13 **Sec. 10. (a)** This section applies regardless of whether the
14 treating physician who has executed an individual's POST form
15 has medical staff privileges at the medical setting or facility as long
16 as the physician was licensed under IC 25-22.5 at the time the
17 POST form was executed.

18 **(b)** The medical orders on a POST form executed under this
19 chapter are enforceable in any medical setting or facility by any
20 health care provider if the POST form, including a copy or
21 facsimile of the original POST form, is available to the health care
22 provider.

23 **(c)** A copy of an individual's POST form must accompany the
24 individual whenever the individual is transferred or discharged
25 from a medical setting or facility.

26 **Sec. 11.** Before October 1, 2014, and before October 1 of each
27 year thereafter, the state department shall report to the health
28 finance commission established by IC 2-5-23-3 concerning the use
29 of the POST form, including the following information:

- 30 (1) A sample of the current POST form.
31 (2) Any information the state department has on the use of the
32 POST form.
33 (3) Any complaints or issues concerning use of the POST
34 form.
35 (4) Any requests received by the state department to modify
36 the POST form.

37 SECTION 4. IC 34-30-2-75.5 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2012]: **Sec. 75.5. IC 16-36-6-9 (Concerning**
40 **health care providers and their employees who carry out the**
41 **orders of a physician order for scope of treatment form).**

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