

# Key points that Indiana EMS professionals need to know about POST (IC 16-36-6)

## Key points with selected excerpts from Indiana Code

### **KEY POINT 1: Not just anyone can execute a POST form; one of the situations listed below must be present.**

1. *A qualified person is an individual who has at least one (1) of the following:*
  - a. *An advanced chronic progressive illness.*
  - b. *An advanced chronic progressive frailty.*
  - c. *A condition caused by injury, disease, or illness from which, to a reasonable degree of medical certainty:*
    - i. *there can be no recovery; and*
    - ii. *death will occur from the condition within a short period without the provision of life prolonging procedures.*
  - d. *A medical condition that, if the person were to suffer cardiac or pulmonary failure, resuscitation would be unsuccessful or within a short period the person would experience repeated cardiac or pulmonary failure resulting in death.*

### **KEY POINT 2: The qualified person may execute the POST form if he/she meets the following requirements.**

2. *A qualified person may complete a POST form if he/she is:*
  - a. *at least eighteen (18) years of age; or less than eighteen (18) years of age but authorized to consent under IC 16-36-1-3(a)(2); and*
  - b. *of sound mind.*

### **KEY POINT 3: If the qualified person cannot execute the POST, his or her representative can execute the form on behalf of the qualified person. Before the representative can do so, the qualified person's physician must determine that the qualified person is incapable of making healthcare decisions.**

3. *A qualified person's representative may complete a POST form, if the qualified person:*
  - a. *is less than eighteen (18) years of age and is not authorized to consent under IC 16-36-1-3(a)(2); or*
  - b. *has been determined to be incapable of making decisions about the qualified person's health care by a treating physician acting in good faith and the representative has been:*
    - i. *appointed by the individual under IC 16-36-1-7 to serve as the individual's health care representative;*
    - ii. *authorized to act under IC 30-5-5-16 and IC 30-5-5-17 as the individual's attorney in fact with authority to consent to or refuse health care for the individual; or*
    - iii. *appointed by a court as the individual's guardian under IC 16-36-1-8.*

### **KEY POINT 3a: Who is the representative?**

- A representative is the qualified person's health care representative, healthcare power of attorney, or court-appointed guardian. These are legally created representatives.
- It is not simply "any family member." While it may not be possible or prudent for you to worry about this during a call, it is important for you to understand the distinction between "representative" and "family member," as they are not necessarily the same.

### **KEY POINT 4: Execution of a POST form requires a conversation about treatment goals and options with the treating physician. The POST should reflect, as much as possible, the qualified person's care preferences.**

4. *Execution process*
  - a. *In order to complete a POST form, the qualified person (or representative) and the qualified person's treating physician or the physician's designee must do the following:*
    - i. *Discuss the qualified person's goals and treatment options available to the qualified person based on the qualified person's health.*
    - ii. *Complete the POST form, to the extent possible, based on the qualified person's preferences determined during the discussion.*
  - b. *When completing a POST form on behalf of a qualified person, a representative shall act:*
    - i. *in good faith; and*
    - ii. *in accordance with the qualified person's express or implied intentions, if known; or the best interest of the qualified person, if the qualified person's express or implied intentions are not known.*
  - c. *A copy of the executed POST form shall be maintained in the qualified person's medical file.*

**KEY POINT 5: The POST form is executed by the treating physician and qualified person or his/her representative and must be signed and dated by those executing the form. The content of the form is dictated by statute.**

5. *Execution by treating physician*

- a. *A POST form may be executed only by an individual's treating physician and only if:*
  - i. *the treating physician has determined that:*
    1. *the individual is a qualified person; and*
    2. *the medical orders contained in the individual's POST form are reasonable and medically appropriate for the individual; and*
  - ii. *the qualified person or representative has completed the POST form in accordance with section 7 of this chapter.*
- b. *The treating physician and qualified person or representative must sign and date the POST form for the POST form to be effective.*
- c. *The POST form must include:*
  - i. *A medical order specifying whether cardiopulmonary resuscitation (CPR) should be performed if the qualified person is in cardiopulmonary arrest.*
  - ii. *A medical order concerning the level of medical intervention that should be provided to the qualified person, including the following:*
    1. *Comfort measures.*
    2. *Limited additional interventions.*
    3. *Full intervention.*
  - iii. *A medical order specifying whether antibiotics should be provided to the qualified person.*
  - iv. *A medical order specifying whether artificially administered nutrition should be provided to the qualified person.*
  - v. *A signature line for the treating physician, including the following information: The physician's printed name; The physician's telephone number; The physician's medical license number; The date of the physician's signature.*
  - vi. *A signature line for the qualified person or representative, including the following information: The qualified person's or representative's printed name; The relationship of the representative signing the POST form to the qualified person covered by the POST form; The date of the signature.*
  - vii. *A section presenting the option to allow a declarant to appoint an individual under IC 16-36-1-7 to serve as the declarant's health care representative.*

**KEY POINT 6: The original POST form is kept by the qualified person or his/her representative. A copy is placed in the qualified person's medical record. Copies of the POST form are to be treated as an original document.**

6. *Ownership of the form*

- a. *The declarant or representative shall keep the original executed POST form. The POST form is considered the personal property of the declarant. The treating physician who executes the POST form shall maintain a copy of the POST form in the declarant's medical records. If the POST form is executed at a health care facility (as defined in IC 16-18-2-161), a copy of the POST form shall be maintained in the health care facility's medical records.*
- b. *A health care provider or health care facility shall treat a facsimile, paper, or electronic copy of a valid POST form as an original document.*
- c. *A health care provider, a health care facility, or an entity acting in good faith may not be considered to have knowledge of a POST form solely on the basis of the POST form's entry into a medical record that can be accessed by a person described in this subsection.*

**KEY POINT 7: A declarant may revoke the POST at any time in writing, verbally, or by destroying the POST form. A representative may revoke the POST in the same manner, but ONLY IF the declarant is incapable of making health care decisions. ONLY these two individuals may legally revoke the POST orders. Understand that the POST form reflects the patient's wishes and do your best to acknowledge those wishes. If you have family who is not the designated representative on scene requesting alternative treatment, use caution in deviating from the POST orders. Contact medical control if needed.**

7. *Revocation of POST form*

- a. *A declarant or representative subject to subsection (b) may at any time revoke a POST form by any of the following:*
  - i. *A signed and dated writing.*
  - ii. *Physical cancellation or destruction of the POST form by:*
    1. *the declarant;*
    2. *the representative; or*
    3. *another individual at the direction of the declarant or representative.*
  - iii. *An oral expression by the declarant or representative of an intent to revoke the POST form.*

- b. *A representative may revoke the POST form only if the declarant is incapable of making decisions regarding the declarant's health care.*
- c. *A revocation of a POST form under this section is effective upon communication of the revocation to a health care provider.*
- d. *Upon communication of the revocation of a POST form under this section, the health care provider shall immediately notify the declarant's treating physician, if known, of the revocation.*

**KEY POINT 8: A declarant may, at any time, request alternative treatment to the treatment specified in the POST form. A representative may, at any time, request alternative treatment to the treatment specified in the POST form, but ONLY IF the declarant is incapable of making health care decisions.**

8. *Alternative treatment request allowed*

- a. *A declarant, or, subject to subsection (b) (below), a representative, may, at any time, request alternative treatment to the treatment specified on the POST form.*
- b. *A representative may request alternative treatment only if the declarant is incapable of making decisions concerning the declarant's health care.*
- c. *A health care provider to whom a request for alternative treatment is communicated shall, as soon as possible, notify the declarant's treating physician, if known, of the request.*

**KEY POINT 9: The POST form has no effect during the declarant's pregnancy.**

9. *POST form not effective during pregnancy*

- a. *A declarant's executed POST form has no effect during the declarant's pregnancy if the declarant is known to be pregnant.*

**KEY POINT 10: The medical orders in a POST form apply across all settings, including pre-hospital situations. Health care providers are to follow those orders unless the provider believes that the form is invalid or revoked, alternative treatment has been requested by the declarant or his/her representative, the POST form's intervention would be medically inappropriate, or the provider objects to the treatment due to religious or moral beliefs. If the declarant is capable of making health care decisions, the health care provider should affirm that the patient wishes to have the POST orders followed.**

10. *Medical orders in POST form effective in all settings*

- a. *Except as otherwise provided in this chapter, the medical orders included in a POST form executed under this chapter are effective in all settings. A health care provider shall comply with a declarant's POST form that is apparent and immediately available to the provider unless the provider:*
  - i. *believes the POST form was not validly executed under this chapter;*
  - ii. *believes in good faith that the declarant, the representative, or another individual at the request of the declarant or representative has revoked the POST form as provided in section 11 of this chapter;*
  - iii. *believes in good faith that the declarant or representative has made a request for alternative treatment as provided in section 12 of this chapter;*
  - iv. *believes it would be medically inappropriate to provide the intervention included in the declarant's POST form; or*
  - v. *has religious or moral beliefs that conflict with the POST form.*
- b. *A health care provider is not required to provide medical treatment that is contrary to a declarant's POST form that has been executed in accordance with this chapter.*
- c. *If a declarant is capable of making health care decisions, the declarant's treating physician, before carrying out or implementing a medical order indicated in the declarant's POST form, shall discuss the order with the declarant to reaffirm or amend the order on the POST form.*

**KEY POINT 11: A health care provider that acts in good faith and in accordance with reasonable medical standards to carry out the orders on a POST form, including a medical order for the withholding or withdrawal of life prolonging procedures, is not subject to criminal or civil liability and may not be found to have committed an act of unprofessional conduct. A health care provider may presume in the absence of actual notice or evidence to the contrary that a POST form executed in compliance with this chapter is valid and enforceable.**

**KEY POINT 12: A POST form may not be construed to compel or authorize a health care provider or health care facility to administer medical treatment that is medically inappropriate or prohibited by state or federal law.**

**KEY POINT 13: Use of a POST form is voluntary.**