

Schuerer, Baettger, Harper

SSB 3103  
Human Resources

Succeeded By  
SF HF 2155

SENATE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON HUMAN  
RESOURCES BILL BY  
CHAIRPERSON REDWINE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the issuance of out-of-hospital do-not-  
2 resuscitate orders and making penalties applicable.

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

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1 Section 1. Section 144A.2, Code 2001, is amended to read  
2 as follows:

3 144A.2 DEFINITIONS.

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

5 1. "Adult" means an individual eighteen years of age or  
6 older.

7 2. "Attending physician" means the physician selected by,  
8 or assigned to, the patient who has primary responsibility for  
9 the treatment and care of the patient.

10 3. "Declaration" means a document executed in accordance  
11 with the requirements of section 144A.3.

12 4. "Department" means the Iowa department of public  
13 health.

14 5. "Emergency medical care provider" means emergency  
15 medical care provider as defined in section 147A.1.

16 ~~4-~~ 6. "Health care provider" means a person, including an  
17 emergency medical care provider, who is licensed, certified,  
18 or otherwise authorized or permitted by the law of this state  
19 to administer health care in the ordinary course of business  
20 or in the practice of a profession.

21 7. "Hospital" means hospital as defined in section 135B.1.

22 ~~5-~~ 8. "Life-sustaining procedure" means any medical  
23 procedure, treatment, or intervention, including  
24 resuscitation, which meets both of the following requirements:

25 a. Utilizes mechanical or artificial means to sustain,  
26 restore, or supplant a spontaneous vital function.

27 b. When applied to a patient in a terminal condition,  
28 would serve only to prolong the dying process.

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

34 9. "Out-of-hospital do-not-resuscitate order" means a  
35 written order signed by a physician, executed in accordance

1 with the requirements of section 144A.7A and issued consistent  
2 with this chapter, that directs the withholding or withdrawal  
3 of resuscitation when an adult patient in a terminal condition  
4 is outside the hospital.

5 ~~6-~~ 10. "Physician" means a person licensed to practice  
6 medicine and surgery, osteopathy or osteopathic medicine and  
7 surgery in this state.

8 ~~7-~~ 11. "Qualified patient" means a patient who has  
9 executed a declaration or an out-of-hospital do-not-  
10 resuscitate order in accordance with this chapter and who has  
11 been determined by the attending physician to be in a terminal  
12 condition.

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

19 ~~8-~~ 13. "Terminal condition" means an incurable or  
20 irreversible condition that, without the administration of  
21 life-sustaining procedures, will, in the opinion of the  
22 attending physician, result in death within a relatively short  
23 period of time or a state of permanent unconsciousness from  
24 which, to a reasonable degree of medical certainty, there can  
25 be no recovery.

26 Sec. 2. Section 144A.3, subsection 2, unnumbered paragraph  
27 1, Code 2001, is amended to read as follows:

28 The declaration must be signed by the declarant or another  
29 person acting on behalf of the declarant at the direction of  
30 the declarant, must contain the date of ~~its~~ the declaration's  
31 execution, and must be witnessed or acknowledged by one of the  
32 following methods:

33 Sec. 3. Section 144A.3, subsection 2, paragraph a,  
34 subparagraphs (1) and (2), Code 2001, are amended to read as  
35 follows:

1 (1) A health care provider attending the declarant on the  
2 date of execution of the declaration.

3 (2) An employee of a health care provider attending the  
4 declarant on the date of execution of the declaration.

5 Sec. 4. Section 144A.7, subsection 1, paragraph a, Code  
6 2001, is amended to read as follows:

7 a. The attorney in fact designated to make treatment  
8 decisions for the patient should such person be diagnosed as  
9 suffering from a terminal condition, if the designation is in  
10 writing and complies with chapter 144B or section 633.705.

11 Sec. 5. NEW SECTION. 144A.7A OUT-OF-HOSPITAL DO-NOT-  
12 RESUSCITATE ORDERS.

13 1. If an attending physician issues an out-of-hospital do-  
14 not-resuscitate order for an adult patient under this section,  
15 the physician shall use the form prescribed pursuant to  
16 subsection 2, include a copy of the order in the patient's  
17 medical record, and provide a copy to the patient or an  
18 individual authorized to act on the patient's behalf.

19 2. The department, in collaboration with interested  
20 parties, shall prescribe uniform out-of-hospital do-not-  
21 resuscitate order forms and uniform personal identifiers, and  
22 shall adopt administrative rules necessary to implement this  
23 section. The uniform forms and personal identifiers shall be  
24 used statewide.

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

27 a. The patient's name.

28 b. The patient's date of birth.

29 c. The name of the individual authorized to act on the  
30 patient's behalf, if applicable.

31 d. A statement that the patient is in a terminal  
32 condition.

33 e. The physician's signature.

34 f. The date the form is signed.

35 g. A concise statement of the nature and scope of the

1 order.

2 h. Any other information necessary to provide clear and  
3 reliable instructions to a health care provider.

4 4. A health care provider may withhold or withdraw  
5 resuscitation outside a hospital consistent with an out-of-  
6 hospital do-not-resuscitate order issued under this section  
7 and the rules or protocols adopted by the department.

8 5. In fulfilling the instructions of an out-of-hospital  
9 do-not-resuscitate order under this chapter, a health care  
10 provider shall continue to provide appropriate comfort care  
11 and pain relief to the patient.

12 6. An out-of-hospital do-not-resuscitate order shall not  
13 apply when a patient is in need of emergency medical services  
14 due to a sudden accident or injury resulting from a motor  
15 vehicle collision, fire, mass casualty, or other cause of a  
16 sudden accident or injury which is outside the scope of the  
17 patient's terminal condition.

18 7. An out-of-hospital do-not-resuscitate order is deemed  
19 revoked at any time that a patient, or an individual  
20 authorized to act on the patient's behalf as designated on the  
21 out-of-hospital do-not-resuscitate order, is able to  
22 communicate in any manner the intent that the order be  
23 revoked, without regard to the mental or physical condition of  
24 the patient. A revocation is only effective as to the health  
25 care provider upon communication to that provider by the  
26 patient, an individual authorized to act on the patient's  
27 behalf as designated in the order, or by another person to  
28 whom the revocation is communicated.

29 8. The personal wishes of family members or other  
30 individuals who are not authorized in the order to act on the  
31 patient's behalf shall not supersede a valid out-of-hospital  
32 do-not-resuscitate order.

33 9. If uncertainty regarding the validity or applicability  
34 of an out-of-hospital do-not-resuscitate order exists, a  
35 health care provider shall provide necessary and appropriate

1 resuscitation.

2 10. A health care provider shall document compliance or  
3 noncompliance with an out-of-hospital do-not-resuscitate order  
4 and the reasons for not complying with the order, including  
5 evidence that the order was revoked or uncertainty regarding  
6 the validity or applicability of the order.

7 11. This section shall not preclude a hospital licensed  
8 under chapter 135B from honoring an out-of-hospital do-not-  
9 resuscitate order entered in accordance with this section and  
10 in compliance with established hospital policies and  
11 protocols.

12 Sec. 6. Section 144A.8, Code 2001, is amended to read as  
13 follows:

14 144A.8 TRANSFER OF PATIENTS.

15 1. An attending physician who is unwilling to comply with  
16 the requirements of section 144A.5, or who is unwilling to  
17 comply with the declaration of a qualified patient in  
18 accordance with section 144A.6 or an out-of-hospital do-not-  
19 resuscitate order pursuant to section 144A.7A, or who is  
20 unwilling to comply with the provisions of section 144A.7 or  
21 144A.7A shall take all reasonable steps to effect the transfer  
22 of the patient to another physician.

23 2. If the policies of a health care provider preclude  
24 compliance with the declaration or out-of-hospital do-not-  
25 resuscitate order of a qualified patient under this chapter or  
26 preclude compliance with the provisions of section 144A.7 or  
27 144A.7A, the provider shall take all reasonable steps to  
28 effect the transfer of the patient to a facility in which the  
29 provisions of this chapter can be carried out.

30 Sec. 7. Section 144A.9, subsection 1, unnumbered paragraph  
31 1, Code 2001, is amended to read as follows:

32 In the absence of actual notice of the revocation of a  
33 declaration or of an out-of-hospital do-not-resuscitate order,  
34 the following, while acting in accordance with the  
35 requirements of this chapter, are not subject to civil or

1 criminal liability or guilty of unprofessional conduct:

2 Sec. 8. Section 144A.9, Code 2001, is amended by adding  
3 the following new subsection:

4 NEW SUBSECTION. 4. In the absence of actual notice of the  
5 revocation of an out-of-hospital do-not-resuscitate order, a  
6 health care provider who complies with this chapter is not  
7 subject to civil or criminal liability or guilty of  
8 unprofessional conduct in entering, executing, or otherwise  
9 participating in an out-of-hospital do-not-resuscitate order.

10 Sec. 9. Section 144A.10, Code 2001, is amended to read as  
11 follows:

12 144A.10 PENALTIES.

13 1. Any person who willfully conceals, withholds, cancels,  
14 destroys, alters, defaces, or obliterates the declaration,  
15 out-of-hospital do-not-resuscitate order, or out-of-hospital  
16 do-not-resuscitate identifier of another without the  
17 declarant's or patient's consent or who falsifies or forges a  
18 revocation of the declaration or out-of-hospital do-not-  
19 resuscitate order of another is guilty of a serious  
20 misdemeanor.

21 2. Any person who falsifies or forges the declaration or  
22 out-of-hospital do-not-resuscitate order of another, or  
23 willfully conceals or withholds personal knowledge of or  
24 delivery of a revocation as provided in section 144A.4 or  
25 144A.7A, with the intent to cause a withholding or withdrawal  
26 of life-sustaining procedures, is guilty of a serious  
27 misdemeanor.

28 Sec. 10. Section 144A.11, subsections 1, 2, 3, and 4, Code  
29 2001, are amended to read as follows:

30 1. Death resulting from the withholding or withdrawal of  
31 life-sustaining procedures pursuant to a declaration or out-  
32 of-hospital do-not-resuscitate order and in accordance with  
33 this chapter does not, for any purpose, constitute a suicide,  
34 or homicide, or dependent adult abuse.

35 2. The making executing of a declaration pursuant to

1 section 144A.3 or an out-of-hospital do-not-resuscitate order  
2 pursuant to section 144A.7A does not affect in any manner the  
3 sale, procurement, or issuance of any policy of life  
4 insurance, nor shall it be deemed to modify the terms of an  
5 existing policy of life insurance. No policy of life  
6 insurance is legally impaired or invalidated in any manner by  
7 the withholding or withdrawal of life-sustaining procedures  
8 pursuant to this chapter, notwithstanding any term of the  
9 policy to the contrary.

10 3. A physician, health care provider, health care service  
11 plan, insurer issuing disability insurance, self-insured  
12 employee welfare benefit plan, or nonprofit hospital plan  
13 shall not require any person to execute a declaration or an  
14 out-of-hospital do-not-resuscitate order as a condition for  
15 being insured for, or receiving, health care services.

16 4. This chapter creates no presumption concerning the  
17 intention of an individual who has not executed a declaration  
18 or an out-of-hospital do-not-resuscitate order with respect to  
19 the use, withholding, or withdrawal of life-sustaining  
20 procedures in the event of a terminal condition.

21 Sec. 11. APPLICATION TO EXISTING ORDERS. An out-of-  
22 hospital do-not-resuscitate order or similar order executed  
23 prior to July 1, 2002, is valid and shall be honored in  
24 accordance with the then-applicable provisions of law.

25 EXPLANATION

26 This bill provides for the development and use of out-of-  
27 hospital do-not-resuscitate orders. The bill provides  
28 definitions, including definitions of "emergency medical care  
29 provider", "out-of-hospital do-not-resuscitate order", and  
30 "resuscitation". The bill also provides the process for  
31 issuing an out-of-hospital do-not-resuscitate order, directs  
32 the Iowa department of public health to develop a uniform form  
33 and personal identifier for the orders, specifies the contents  
34 of the form, and establishes the scope and limitations of the  
35 order. The bill specifies provisions for the revocation of an

1 order, provides immunity for persons acting in compliance in  
 2 entering, executing, or otherwise participating in an order,  
 3 and provides for the application of penalties and general  
 4 provisions relating to the orders. With regard to penalties,  
 5 the bill provides that any person who willfully conceals,  
 6 withholds, cancels, destroys, alters, defaces, or obliterates  
 7 an out-of-hospital do-not-resuscitate order, or out-of-  
 8 hospital do-not-resuscitate identifier of a patient without  
 9 the patient's consent, or who falsifies or forges a revocation  
 10 of an out-of-hospital do-not-resuscitate order of another, is  
 11 guilty of a serious misdemeanor. Additionally, any person who  
 12 falsifies or forges an out-of-hospital do-not-resuscitate  
 13 order of another, or willfully conceals or withholds personal  
 14 knowledge of or delivery of a revocation with the intent to  
 15 cause a withholding or withdrawal of life-sustaining  
 16 procedures, is guilty of a serious misdemeanor. A serious  
 17 misdemeanor is punishable by confinement for no more than one  
 18 year and a fine of at least \$250 but not more than \$1,500.

19 The bill also provides that existing orders or similar  
 20 orders existing prior to July 1, 2002, are valid and are to be  
 21 honored in accordance with the laws that were applicable at  
 22 the time of execution of the order.

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Substitutes for HF 2450  
3/18/02  
(P. 824)

FILED FEB 13 2002

SENATE FILE 2155  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 3103)

Passed Senate, Date <sup>(P. 466)</sup> 3/4/02 Passed House, Date <sup>(P. 825)</sup> 3/18/02  
Vote: Ayes 48 Nays 0 Vote: Ayes 91 Nays 0  
Approved April 4, 2002

**A BILL FOR**

1 An Act providing for the issuance of out-of-hospital do-not-  
2 resuscitate orders and making penalties applicable.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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copy of

1 Section 1. Section 144A.2, Code 2001, is amended to read  
2 as follows:

3 144A.2 DEFINITIONS.

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

5 1. "Adult" means an individual eighteen years of age or  
6 older.

7 2. "Attending physician" means the physician selected by,  
8 or assigned to, the patient who has primary responsibility for  
9 the treatment and care of the patient.

10 3. "Declaration" means a document executed in accordance  
11 with the requirements of section 144A.3.

12 4. "Department" means the Iowa department of public  
13 health.

14 5. "Emergency medical care provider" means emergency  
15 medical care provider as defined in section 147A.1.

16 ~~4.~~ 6. "Health care provider" means a person, including an  
17 emergency medical care provider, who is licensed, certified,  
18 or otherwise authorized or permitted by the law of this state  
19 to administer health care in the ordinary course of business  
20 or in the practice of a profession.

21 7. "Hospital" means hospital as defined in section 135B.1.

22 ~~5.~~ 8. "Life-sustaining procedure" means any medical  
23 procedure, treatment, or intervention, including  
24 resuscitation, which meets both of the following requirements:

25 a. Utilizes mechanical or artificial means to sustain,  
26 restore, or supplant a spontaneous vital function.

27 b. When applied to a patient in a terminal condition,  
28 would serve only to prolong the dying process.

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

34 9. "Out-of-hospital do-not-resuscitate order" means a  
35 written order signed by a physician, executed in accordance

1 with the requirements of section 144A.7A and issued consistent  
2 with this chapter, that directs the withholding or withdrawal  
3 of resuscitation when an adult patient in a terminal condition  
4 is outside the hospital.

5 6- 10. "Physician" means a person licensed to practice  
6 medicine and surgery, osteopathy or osteopathic medicine and  
7 surgery in this state.

8 7- 11. "Qualified patient" means a patient who has  
9 executed a declaration or an out-of-hospital do-not-  
10 resuscitate order in accordance with this chapter and who has  
11 been determined by the attending physician to be in a terminal  
12 condition.

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

19 8- 13. "Terminal condition" means an incurable or  
20 irreversible condition that, without the administration of  
21 life-sustaining procedures, will, in the opinion of the  
22 attending physician, result in death within a relatively short  
23 period of time or a state of permanent unconsciousness from  
24 which, to a reasonable degree of medical certainty, there can  
25 be no recovery.

26 Sec. 2. Section 144A.3, subsection 2, unnumbered paragraph  
27 1, Code 2001, is amended to read as follows:

28 The declaration must be signed by the declarant or another  
29 person acting on behalf of the declarant at the direction of  
30 the declarant, must contain the date of ~~its~~ the declaration's  
31 execution, and must be witnessed or acknowledged by one of the  
32 following methods:

33 Sec. 3. Section 144A.3, subsection 2, paragraph a,  
34 subparagraphs (1) and (2), Code 2001, are amended to read as  
35 follows:

1 (1) A health care provider attending the declarant on the  
2 date of execution of the declaration.

3 (2) An employee of a health care provider attending the  
4 declarant on the date of execution of the declaration.

5 Sec. 4. Section 144A.7, subsection 1, paragraph a, Code  
6 2001, is amended to read as follows:

7 a. The attorney in fact designated to make treatment  
8 decisions for the patient should such person be diagnosed as  
9 suffering from a terminal condition, if the designation is in  
10 writing and complies with chapter 144B or section 633.705.

11 Sec. 5. NEW SECTION. 144A.7A OUT-OF-HOSPITAL DO-NOT-  
12 RESUSCITATE ORDERS.

13 1. If an attending physician issues an out-of-hospital do-  
14 not-resuscitate order for an adult patient under this section,  
15 the physician shall use the form prescribed pursuant to  
16 subsection 2, include a copy of the order in the patient's  
17 medical record, and provide a copy to the patient or an  
18 individual authorized to act on the patient's behalf.

19 2. The department, in collaboration with interested  
20 parties, shall prescribe uniform out-of-hospital do-not-  
21 resuscitate order forms and uniform personal identifiers, and  
22 shall adopt administrative rules necessary to implement this  
23 section. The uniform forms and personal identifiers shall be  
24 used statewide.

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

27 a. The patient's name.

28 b. The patient's date of birth.

29 c. The name of the individual authorized to act on the  
30 patient's behalf, if applicable.

31 d. A statement that the patient is in a terminal  
32 condition.

33 e. The physician's signature.

34 f. The date the form is signed.

35 g. A concise statement of the nature and scope of the

1 order.

2 h. Any other information necessary to provide clear and  
3 reliable instructions to a health care provider.

4 4. A health care provider may withhold or withdraw  
5 resuscitation outside a hospital consistent with an out-of-  
6 hospital do-not-resuscitate order issued under this section  
7 and the rules or protocols adopted by the department.

8 5. In fulfilling the instructions of an out-of-hospital  
9 do-not-resuscitate order under this chapter, a health care  
10 provider shall continue to provide appropriate comfort care  
11 and pain relief to the patient.

12 6. An out-of-hospital do-not-resuscitate order shall not  
13 apply when a patient is in need of emergency medical services  
14 due to a sudden accident or injury resulting from a motor  
15 vehicle collision, fire, mass casualty, or other cause of a  
16 sudden accident or injury which is outside the scope of the  
17 patient's terminal condition.

18 7. An out-of-hospital do-not-resuscitate order is deemed  
19 revoked at any time that a patient, or an individual  
20 authorized to act on the patient's behalf as designated on the  
21 out-of-hospital do-not-resuscitate order, is able to  
22 communicate in any manner the intent that the order be  
23 revoked, without regard to the mental or physical condition of  
24 the patient. A revocation is only effective as to the health  
25 care provider upon communication to that provider by the  
26 patient, an individual authorized to act on the patient's  
27 behalf as designated in the order, or by another person to  
28 whom the revocation is communicated.

29 8. The personal wishes of family members or other  
30 individuals who are not authorized in the order to act on the  
31 patient's behalf shall not supersede a valid out-of-hospital  
32 do-not-resuscitate order.

33 9. If uncertainty regarding the validity or applicability  
34 of an out-of-hospital do-not-resuscitate order exists, a  
35 health care provider shall provide necessary and appropriate

1 resuscitation.

2 10. A health care provider shall document compliance or  
3 noncompliance with an out-of-hospital do-not-resuscitate order  
4 and the reasons for not complying with the order, including  
5 evidence that the order was revoked or uncertainty regarding  
6 the validity or applicability of the order.

7 11. This section shall not preclude a hospital licensed  
8 under chapter 135B from honoring an out-of-hospital do-not-  
9 resuscitate order entered in accordance with this section and  
10 in compliance with established hospital policies and  
11 protocols.

12 Sec. 6. Section 144A.8, Code 2001, is amended to read as  
13 follows:

14 144A.8 TRANSFER OF PATIENTS.

15 1. An attending physician who is unwilling to comply with  
16 the requirements of section 144A.5, or who is unwilling to  
17 comply with the declaration of a qualified patient in  
18 accordance with section 144A.6 or an out-of-hospital do-not-  
19 resuscitate order pursuant to section 144A.7A, or who is  
20 unwilling to comply with the provisions of section 144A.7 or  
21 144A.7A shall take all reasonable steps to effect the transfer  
22 of the patient to another physician.

23 2. If the policies of a health care provider preclude  
24 compliance with the declaration or out-of-hospital do-not-  
25 resuscitate order of a qualified patient under this chapter or  
26 preclude compliance with the provisions of section 144A.7 or  
27 144A.7A, the provider shall take all reasonable steps to  
28 effect the transfer of the patient to a facility in which the  
29 provisions of this chapter can be carried out.

30 Sec. 7. Section 144A.9, subsection 1, unnumbered paragraph  
31 1, Code 2001, is amended to read as follows:

32 In the absence of actual notice of the revocation of a  
33 declaration or of an out-of-hospital do-not-resuscitate order,  
34 the following, while acting in accordance with the  
35 requirements of this chapter, are not subject to civil or

1 criminal liability or guilty of unprofessional conduct:

2 Sec. 8. Section 144A.9, Code 2001, is amended by adding  
3 the following new subsection:

4 NEW SUBSECTION. 4. In the absence of actual notice of the  
5 revocation of an out-of-hospital do-not-resuscitate order, a  
6 health care provider who complies with this chapter is not  
7 subject to civil or criminal liability or guilty of  
8 unprofessional conduct in entering, executing, or otherwise  
9 participating in an out-of-hospital do-not-resuscitate order.

10 Sec. 9. Section 144A.10, Code 2001, is amended to read as  
11 follows:

12 144A.10 PENALTIES.

13 1. Any person who willfully conceals, withholds, cancels,  
14 destroys, alters, defaces, or obliterates the declaration,  
15 out-of-hospital do-not-resuscitate order, or out-of-hospital  
16 do-not-resuscitate identifier of another without the  
17 declarant's or patient's consent or who falsifies or forges a  
18 revocation of the declaration or out-of-hospital do-not-  
19 resuscitate order of another is guilty of a serious  
20 misdemeanor.

21 2. Any person who falsifies or forges the declaration or  
22 out-of-hospital do-not-resuscitate order of another, or  
23 willfully conceals or withholds personal knowledge of or  
24 delivery of a revocation as provided in section 144A.4 or  
25 144A.7A, with the intent to cause a withholding or withdrawal  
26 of life-sustaining procedures, is guilty of a serious  
27 misdemeanor.

28 Sec. 10. Section 144A.11, subsections 1, 2, 3, and 4, Code  
29 2001, are amended to read as follows:

30 1. Death resulting from the withholding or withdrawal of  
31 life-sustaining procedures pursuant to a declaration or out-  
32 of-hospital do-not-resuscitate order and in accordance with  
33 this chapter does not, for any purpose, constitute a suicide,  
34 or homicide, or dependent adult abuse.

35 2. The making executing of a declaration pursuant to

1 section 144A.3 or an out-of-hospital do-not-resuscitate order  
2 pursuant to section 144A.7A does not affect in any manner the  
3 sale, procurement, or issuance of any policy of life  
4 insurance, nor shall it be deemed to modify the terms of an  
5 existing policy of life insurance. No policy of life  
6 insurance is legally impaired or invalidated in any manner by  
7 the withholding or withdrawal of life-sustaining procedures  
8 pursuant to this chapter, notwithstanding any term of the  
9 policy to the contrary.

10 3. A physician, health care provider, health care service  
11 plan, insurer issuing disability insurance, self-insured  
12 employee welfare benefit plan, or nonprofit hospital plan  
13 shall not require any person to execute a declaration or an  
14 out-of-hospital do-not-resuscitate order as a condition for  
15 being insured for, or receiving, health care services.

16 4. This chapter creates no presumption concerning the  
17 intention of an individual who has not executed a declaration  
18 or an out-of-hospital do-not-resuscitate order with respect to  
19 the use, withholding, or withdrawal of life-sustaining  
20 procedures in the event of a terminal condition.

21 Sec. 11. APPLICATION TO EXISTING ORDERS. An out-of-  
22 hospital do-not-resuscitate order or similar order executed  
23 prior to July 1, 2002, is valid and shall be honored in  
24 accordance with the then-applicable provisions of law.

25 EXPLANATION

26 This bill provides for the development and use of out-of-  
27 hospital do-not-resuscitate orders. The bill provides  
28 definitions, including definitions of "emergency medical care  
29 provider", "out-of-hospital do-not-resuscitate order", and  
30 "resuscitation". The bill also provides the process for  
31 issuing an out-of-hospital do-not-resuscitate order, directs  
32 the Iowa department of public health to develop a uniform form  
33 and personal identifier for the orders, specifies the contents  
34 of the form, and establishes the scope and limitations of the  
35 order. The bill specifies provisions for the revocation of an

1 order, provides immunity for persons acting in compliance in  
2 entering, executing, or otherwise participating in an order,  
3 and provides for the application of penalties and general  
4 provisions relating to the orders. With regard to penalties,  
5 the bill provides that any person who willfully conceals,  
6 withholds, cancels, destroys, alters, defaces, or obliterates  
7 an out-of-hospital do-not-resuscitate order, or out-of-  
8 hospital do-not-resuscitate identifier of a patient without  
9 the patient's consent, or who falsifies or forges a revocation  
10 of an out-of-hospital do-not-resuscitate order of another, is  
11 guilty of a serious misdemeanor. Additionally, any person who  
12 falsifies or forges an out-of-hospital do-not-resuscitate  
13 order of another, or willfully conceals or withholds personal  
14 knowledge of or delivery of a revocation with the intent to  
15 cause a withholding or withdrawal of life-sustaining  
16 procedures, is guilty of a serious misdemeanor. A serious  
17 misdemeanor is punishable by confinement for no more than one  
18 year and a fine of at least \$250 but not more than \$1,500.

19 The bill also provides that existing orders or similar  
20 orders existing prior to July 1, 2002, are valid and are to be  
21 honored in accordance with the laws that were applicable at  
22 the time of execution of the order.

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# Legislative Fiscal Bureau

## Fiscal Note

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SF 2155 - Out of Hospital Do Not Resuscitate (LSB 6053 SV)

Analyst: Russ Trimble (Phone: (515) 281-4613) (Russ.Trimble@legis.state.ia.us)

Fiscal Note Version - New

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### Description

Senate File 2155 provides for the development and use of out-of-hospital do-not-resuscitate orders, the process of issuing the orders, and directs the Department of Public Health to develop a standard form and personal identifier for the orders. The Bill also establishes the scope and limitations of the do-not-resuscitate orders, and provides penalties for those who violate the provisions of the purposed legislation.

### Assumptions

1. The Department of Public Health would require 0.50 FTE position and \$24,000 for a Community Health Consultant to help educate Iowa's certified Emergency Medical Service (EMS) providers on the regulations and requirements of the Program in order to ensure compliance.
2. The Department would require \$4,500 for support costs related to the Community Health Consultant position. Costs would include travel, phone, and office supplies and equipment.
3. The Department would purchase and distribute 10,000 uniform personal identifiers at \$2.00 per identifier. Distribution costs are included in the price.
4. The Department would prescribe and distribute 10,000 uniform do-not-resuscitate order forms at a total cost of \$1,000.

### Correctional Impact

Senate File 2155 is not expected to have a significant correctional impact.

### Fiscal Impact

The estimated General Fund cost of Senate File 2155 is \$50,000 annually.

### Sources

Department of Public Health

Criminal and Juvenile Justice Planning Division, Department of Human Rights

Department of Corrections

*/s/ Dennis C Prouty*

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February 14, 2002

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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SENATE FILE 2155

AN ACT

PROVIDING FOR THE ISSUANCE OF OUT-OF-HOSPITAL DO-NOT-  
RESUSCITATE ORDERS AND MAKING PENALTIES APPLICABLE.

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

Section 1. Section 144A.2, Code 2001, is amended to read  
as follows:

144A.2 DEFINITIONS.

Except as otherwise provided, as used in this chapter:

1. "Adult" means an individual eighteen years of age or older.
2. "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.
3. "Declaration" means a document executed in accordance with the requirements of section 144A.3.
4. "Department" means the Iowa department of public health.
5. "Emergency medical care provider" means emergency medical care provider as defined in section 147A.1.
- 4~~7~~ 6. "Health care provider" means a person, including an emergency medical care provider, who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.
7. "Hospital" means hospital as defined in section 135B.1.
- 5~~7~~ 8. "Life-sustaining procedure" means any medical procedure, treatment, or intervention, including resuscitation, which meets both of the following requirements:
  - a. Utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function.

b. When applied to a patient in a terminal condition, would serve only to prolong the dying process.

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

9. "Out-of-hospital do-not-resuscitate order" means a written order signed by a physician, executed in accordance with the requirements of section 144A.7A and issued consistent with this chapter, that directs the withholding or withdrawal of resuscitation when an adult patient in a terminal condition is outside the hospital.

6~~7~~ 10. "Physician" means a person licensed to practice medicine and surgery, osteopathy or osteopathic medicine and surgery in this state.

7~~8~~ 11. "Qualified patient" means a patient who has executed a declaration or an out-of-hospital do-not-resuscitate order in accordance with this chapter and who has been determined by the attending physician to be in a terminal condition.

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

8~~9~~ 13. "Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery.

Sec. 2. Section 144A.3, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The declaration must be signed by the declarant or another person acting on behalf of the declarant at the direction of the declarant, must contain the date of its the declaration's execution, and must be witnessed or acknowledged by one of the following methods:

Sec. 3. Section 144A.3, subsection 2, paragraph a, subparagraphs (1) and (2), Code 2001, are amended to read as follows:

(1) A health care provider attending the declarant on the date of execution of the declaration.

(2) An employee of a health care provider attending the declarant on the date of execution of the declaration.

Sec. 4. Section 144A.7, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. The attorney in fact designated to make treatment decisions for the patient should such person be diagnosed as suffering from a terminal condition, if the designation is in writing and complies with chapter 144B or section 633.705.

Sec. 5. NEW SECTION. 144A.7A OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDERS.

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

2. The department, in collaboration with interested parties, shall prescribe uniform out-of-hospital do-not-resuscitate order forms and uniform personal identifiers, and shall adopt administrative rules necessary to implement this section. The uniform forms and personal identifiers shall be used statewide.

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

- a. The patient's name.
- b. The patient's date of birth.
- c. The name of the individual authorized to act on the patient's behalf, if applicable.
- d. A statement that the patient is in a terminal condition.
- e. The physician's signature.
- f. The date the form is signed.
- g. A concise statement of the nature and scope of the order.

h. Any other information necessary to provide clear and reliable instructions to a health care provider.

4. A health care provider may withhold or withdraw resuscitation outside a hospital consistent with an out-of-hospital do-not-resuscitate order issued under this section and the rules or protocols adopted by the department.

5. In fulfilling the instructions of an out-of-hospital do-not-resuscitate order under this chapter, a health care provider shall continue to provide appropriate comfort care and pain relief to the patient.

6. An out-of-hospital do-not-resuscitate order shall not apply when a patient is in need of emergency medical services due to a sudden accident or injury resulting from a motor vehicle collision, fire, mass casualty, or other cause of a sudden accident or injury which is outside the scope of the patient's terminal condition.

7. An out-of-hospital do-not-resuscitate order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as designated on the out-of-hospital do-not-resuscitate order, is able to communicate in any manner the intent that the order be revoked, without regard to the mental or physical condition of

the patient. A revocation is only effective as to the health care provider upon communication to that provider by the patient, an individual authorized to act on the patient's behalf as designated in the order, or by another person to whom the revocation is communicated.

8. The personal wishes of family members or other individuals who are not authorized in the order to act on the patient's behalf shall not supersede a valid out-of-hospital do-not-resuscitate order.

9. If uncertainty regarding the validity or applicability of an out-of-hospital do-not-resuscitate order exists, a health care provider shall provide necessary and appropriate resuscitation.

10. A health care provider shall document compliance or noncompliance with an out-of-hospital do-not-resuscitate order and the reasons for not complying with the order, including evidence that the order was revoked or uncertainty regarding the validity or applicability of the order.

11. This section shall not preclude a hospital licensed under chapter 135B from honoring an out-of-hospital do-not-resuscitate order entered in accordance with this section and in compliance with established hospital policies and protocols.

Sec. 6. Section 144A.8, Code 2001, is amended to read as follows:

144A.8 TRANSFER OF PATIENTS.

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

2. If the policies of a health care provider preclude compliance with the declaration or out-of-hospital do-not-resuscitate order of a qualified patient under this chapter or preclude compliance with the provisions of section 144A.7 or 144A.7A, the provider shall take all reasonable steps to effect the transfer of the patient to a facility in which the provisions of this chapter can be carried out.

Sec. 7. Section 144A.9, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

In the absence of actual notice of the revocation of a declaration or of an out-of-hospital do-not-resuscitate order, the following, while acting in accordance with the requirements of this chapter, are not subject to civil or criminal liability or guilty of unprofessional conduct:

Sec. 8. Section 144A.9, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In the absence of actual notice of the revocation of an out-of-hospital do-not-resuscitate order, a health care provider who complies with this chapter is not subject to civil or criminal liability or guilty of unprofessional conduct in entering, executing, or otherwise participating in an out-of-hospital do-not-resuscitate order.

Sec. 9. Section 144A.10, Code 2001, is amended to read as follows:

144A.10 PENALTIES.

1. Any person who willfully conceals, withholds, cancels, destroys, alters, defaces, or obliterates the declaration, out-of-hospital do-not-resuscitate order, or out-of-hospital do-not-resuscitate identifier of another without the declarant's or patient's consent or who falsifies or forges a revocation of the declaration or out-of-hospital do-not-resuscitate order of another is guilty of a serious misdemeanor.

2. Any person who falsifies or forges the declaration or out-of-hospital do-not-resuscitate order of another, or willfully conceals or withholds personal knowledge of or delivery of a revocation as provided in section 144A.4 or 144A.7A, with the intent to cause a withholding or withdrawal of life-sustaining procedures, is guilty of a serious misdemeanor.

Sec. 10. Section 144A.11, subsections 1, 2, 3, and 4, Code 2001, are amended to read as follows:

1. Death resulting from the withholding or withdrawal of life-sustaining procedures pursuant to a declaration or out-of-hospital do-not-resuscitate order and in accordance with this chapter does not, for any purpose, constitute a suicide, or homicide, or dependent adult abuse.

2. The making executing of a declaration pursuant to section 144A.3 or an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance is legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures pursuant to this chapter, notwithstanding any term of the policy to the contrary.

3. A physician, health care provider, health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require any person to execute a declaration or an out-of-hospital do-not-resuscitate order as a condition for being insured for, or receiving, health care services.

4. This chapter creates no presumption concerning the intention of an individual who has not executed a declaration or an out-of-hospital do-not-resuscitate order with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition.

Sec. 11. APPLICATION TO EXISTING ORDERS. An out-of-hospital do-not-resuscitate order or similar order executed prior to July 1, 2002, is valid and shall be honored in accordance with the then-applicable provisions of law.

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MARY E. KRAMER  
President of the Senate

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BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2155, Seventy-ninth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 4/4, 2002

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THOMAS J. VILSACK  
Governor