

SENATE BILL No. 202

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-36-6.

Synopsis: Physician order for scope of treatment. Requires that a health provider assess an individual's mental health before the individual may execute a physician order for scope of treatment (POST) form. Removes artificially administered nutrition from inclusion in the POST form. Requires that there is space at the top of the POST form to indicate whether an individual has designated a health care representative.

Effective: July 1, 2019.

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January 3, 2019, read first time and referred to Committee on Health and Provider Services.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 202

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 16-36-6-7, AS AMENDED BY THE TECHNICAL
- 2 CORRECTIONS BILL OF THE 2019 GENERAL ASSEMBLY, IS
- 3 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:
- 4 Sec. 7. (a) The following individuals may complete a POST form:
- 5 (1) A qualified person who is:
- 6 (A) either:
- 7 (i) at least eighteen (18) years of age; or
- 8 (ii) less than eighteen (18) years of age but authorized to
- 9 consent under IC 16-36-1-3(a)(2); and
- 10 (B) of sound mind **and meets the requirements of subsection**
- 11 **(e).**
- 12 (2) A qualified person's representative, if the qualified person:
- 13 (A) is less than eighteen (18) years of age and is not authorized
- 14 to consent under IC 16-36-1-3(a)(2); or
- 15 (B) has been determined to be incapable of making decisions
- 16 about the qualified person's health care by a treating physician,
- 17 advanced practice **registered** nurse, or physician assistant



1 acting in good faith and the representative has been:

2 (i) appointed by the individual under IC 16-36-1-7 to serve
3 as the individual's health care representative;

4 (ii) authorized to act under IC 30-5-5-16 and IC 30-5-5-17
5 as the individual's attorney in fact with authority to consent
6 to or refuse health care for the individual;

7 (iii) appointed by a court as the individual's health care
8 representative under IC 16-36-1-8; or

9 (iv) appointed by a court as the guardian of the person with
10 the authority to make health care decisions under IC 29-3.

11 (b) In order to complete a POST form, a person described in
12 subsection (a) and the qualified person's treating physician, advanced
13 practice **registered** nurse, or physician assistant or the physician's,
14 advanced practice **registered** nurse's, or physician assistant's designee
15 must do the following:

16 (1) Discuss the qualified person's goals and treatment options
17 available to the qualified person based on the qualified person's
18 health.

19 (2) Complete the POST form, to the extent possible, based on the
20 qualified person's preferences determined during the discussion
21 in subdivision (1).

22 (c) When completing a POST form on behalf of a qualified person,
23 a representative shall act:

24 (1) in good faith; and

25 (2) in:

26 (A) accordance with the qualified person's express or implied
27 intentions, if known; or

28 (B) the best interest of the qualified person, if the qualified
29 person's express or implied intentions are not known.

30 (d) A copy of the executed POST form shall be maintained in the
31 qualified person's medical file.

32 **(e) Before an individual may be execute a POST form, the**
33 **individual's mental health shall be assessed by a health care**
34 **provider to ensure that the individual is of sound mind and able to**
35 **execute the POST form.**

36 SECTION 2. IC 16-36-6-9, AS AMENDED BY THE TECHNICAL
37 CORRECTIONS BILL OF THE 2019 GENERAL ASSEMBLY, IS
38 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:
39 Sec. 9. (a) The state department shall develop a standardized POST
40 form and distribute the POST form.

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



- 1 (1) A medical order specifying whether cardiopulmonary
 2 resuscitation (CPR) should be performed if the qualified person
 3 is in cardiopulmonary arrest.
- 4 (2) A medical order concerning the level of medical intervention
 5 that should be provided to the qualified person, including the
 6 following:
- 7 (A) Comfort measures.
 8 (B) Limited additional interventions.
 9 (C) Full intervention.
- 10 (3) A medical order specifying whether antibiotics should be
 11 provided to the qualified person.
- 12 ~~(4) A medical order specifying whether artificially administered~~
 13 ~~nutrition should be provided to the qualified person.~~
- 14 (5) (4) A signature line for the treating physician, advanced
 15 practice **registered** nurse, or physician assistant, including the
 16 following information:
- 17 (A) The physician's, advanced practice **registered** nurse's, or
 18 physician assistant's printed name.
 19 (B) The physician's, advanced practice **registered** nurse's, or
 20 physician assistant's telephone number.
 21 (C) The physician's medical license number, advanced practice
 22 **registered** nurse's nursing license number, or physician
 23 assistant's state license number.
 24 (D) The date of the physician's, advanced practice **registered**
 25 nurse's, or physician assistant's signature.
- 26 As used in this subdivision, "signature" includes an electronic or
 27 physician, advanced practice **registered** nurse, or physician
 28 assistant controlled stamp signature.
- 29 ~~(6) (5) A signature line for the qualified person or representative,~~
 30 including the following information:
- 31 (A) The qualified person's or representative's printed name.
 32 (B) The relationship of the representative signing the POST
 33 form to the qualified person covered by the POST form.
 34 (C) The date of the signature.
- 35 As used in this subdivision, "signature" includes an electronic
 36 signature.
- 37 (7) (6) A section presenting the option to allow a declarant to
 38 appoint a representative (as defined in IC 16-36-1-2) under
 39 IC 16-36-1-7 to serve as the declarant's health care representative,
 40 **including at the top of the form space to indicate whether the**
 41 **individual has designated a health care representative under**
 42 **IC 16-36-1.**



1 (c) The state department shall place the POST form on its Internet
2 web site.

3 (d) The state department is not liable for any use or misuse of the
4 POST form.

5 SECTION 3. IC 16-36-6-20, AS AMENDED BY P.L.2-2014,
6 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2019]: Sec. 20. The execution or revocation of a POST form
8 by or for a qualified person does not revoke or impair the validity of
9 any of the following:

10 (1) A power of attorney that is executed by a qualified person
11 when the qualified person is competent.

12 (2) Health care powers that are granted to an attorney in fact
13 under IC 30-5-5-16 or IC 30-5-5-17.

14 (3) An appointment of a health care representative that is
15 executed by a qualified person, except to the extent that the POST
16 form contains a superseding appointment of a new health care
17 representative under section ~~9(b)(7)~~ **9(b)(6)** of this chapter.

18 (4) The authority of a health care representative under IC 16-36-1
19 to consent to health care on behalf of the qualified person.

20 (5) The authority of an attorney in fact holding health care powers
21 under IC 30-5-5-16 or IC 30-5-5-17 to issue and enforce
22 instructions under IC 30-5-7 concerning the qualified person's
23 health care.

