

IOWA DEPARTMENT OF EDUCATION

In the Matter of ) [Cite as 29 D.o.E. App. Dec. 145 (2019)]  
 )  
School Compliance with Physician ) SUPERVISORY ORDER  
Orders for Scope of Treatment )

I am issuing this order, pursuant to Iowa Code section 256.1(1), to provide interpretive guidance on the applicability of Iowa Code chapter 144D, regarding Iowa Physician Orders for Scope of Treatment (“IPOST”), to Iowa’s school districts. The Department has become aware of students attending Iowa schools who have IPOST forms that may prevent health care providers from performing certain life-sustaining treatments or interventions in specific circumstances. This Order seeks to provide guidance to schools on how to proceed with addressing the needs of a student whose health care is subject to an IPOST form.

*Background: Iowa Code chapters 144A and 144D*

Iowa Code chapter 144A, or the “Life-Sustaining Procedures Act” creates a mechanism for terminally-ill adults to execute a formal declaration “directing that life-sustaining procedures be withheld or withdrawn.” Iowa Code § 144A.3(1). The Act similarly creates a mechanism for terminally-ill adults to obtain an “out-of-hospital do-not-resuscitate order,” which provides instructions to health care providers as to when life-sustaining measures may be taken outside of a hospital setting. *Id.* § 144A.7A.

In 1988, the Iowa Attorney General issued an opinion “regarding the applicability to public schools of Iowa Code chapter 144A.” Iowa Att’y Gen. Op. No. 88-3-3(L), 1988 WL 1058532, \*1 (Mar. 10, 1988). The opinion concluded that because a public school does not fall within the definition of “health care provider<sup>1</sup>,” a school is not bound by the Act’s obligations and therefore “has no mandatory duty to withhold life-sustaining procedures on direction of the parents and physician” in the absence of a court order. *Id.* at \*2–3. Additionally, the opinion noted that it is unclear whether the Act applies to minors, as the definitions expressly contemplate a terminally-ill *adult* executing a declaration or obtaining an out-of-hospital do-not-resuscitate order. *Id.* at \*2.

In 2012, the legislature enacted Iowa Code chapter 144D, which creates a mechanism for terminally-ill patients to obtain an “IPOST form,” or “physician orders for scope of treatment form,” which is “a document containing medical orders which may be relied upon across medical settings that consolidates and summarizes a patient’s preferences for life-sustaining treatments and interventions and acts as a complement to and does not supersede any advanced directive.” *Id.* § 144D.1(12). Unlike chapter 144A, chapter 144D does not distinguish between adult and minor patients, and instead permits any “patient” who is “has a chronic, critical medical condition or terminal illness” to seek an IPOST form. *Id.* § 144D.1(9). Similar to the directives contained in chapter 144A, health care providers may comply with the instructions of an IPOST form, and any

---

<sup>1</sup> At the time of the opinion, “health care provider” was defined as “a health care facility licensed pursuant to chapter 135C, a hospice program licensed pursuant to chapter 135, or a hospital licensed pursuant to chapter 135B.” Iowa Code § 144A.2(4) (1987).

provider or facility that is unwilling to do so “shall take all reasonable steps to transfer the patient to another health care provider, hospital, or health care facility.” *Id.* § 144D.3(5).

### *Application of Iowa Code chapter 144D to Schools*

The definition of “health care facility” in chapter 144D does not contemplate a school. A school is neither a “health care facility as defined in section 135C.1, a hospice program, as defined in section 135J.1, an elder group home as defined in section 231B.1, [nor] an assisted living program as defined in section 231C.2.” *Id.* § 144D.1(4). A school is not a “health care provider,” as it is not an “individual . . . 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.” *Id.* § 144D.1(5). Thus, a school is not required to comply with the terms of this chapter that apply to health care providers or facilities. *See* Iowa Att’y Gen. Op. No. 88-3-3(L).

However, schools may employ licensed health care professionals, including school nurses. A school nurse would have to comply with the terms of chapter 144D, as the school nurse is an individual licensed by the Iowa Board of Nursing to administer health care to students. *Id.* §§ 144D.1(5); 147.2. As a health care provider, a school nurse must either comply with an executed IPOST form for a student, or if he or she is unwilling to do so, the nurse must take all reasonable steps to transfer the student to a facility or provider that will comply with the IPOST form. *Id.* §§ 144D.3(2), (5).

Significantly, chapter 144D provides an “absolute defense” to criminal or civil liability based on conduct taken in compliance with chapter 144D. Although certain requirements within chapter 144D only apply to health care providers or facilities, the absolute defense to liability extends to any “other person” who acted in compliance with chapter 144D. *Id.* § 144D.3(4). The chapter does not define “other person,” and no Iowa court has yet had the opportunity to interpret the term. Given the legislature’s desire to promote health care decisions informed by the patient’s “values and personal health status,” as well as the broad language of the immunity provision, I conclude that health care professionals employed by school districts, such as school nurses must, and school districts may, reasonably comply with a current IPOST form. *See* 2012 Iowa Acts ch. 1008.

### *Other Considerations*

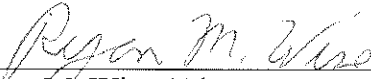
My conclusion is further bolstered by professional norms. For example, whether a terminally-ill child would benefit from CPR administration, or whether a terminally-ill child would be further harmed by CPR administration, is a decision that should be made by the treating health care provider, guided by the provider’s experience and the scope of the IPOST form. School nurses or emergency personnel are in the best position to determine the type and scope of medical care a student should receive. Schools should consider the recommendations of the student’s treating health care providers when deciding how to proceed with addressing the needs of a student whose care is governed in part by an IPOST form.

My conclusion is also bolstered by the view, expressed in the policy underlying Iowa Code chapter 144D, that end-of-life decisions are to be made by families and physicians and that school personnel should not second-guess the wisdom of those decisions.

*Conclusion*

For the reasons I have stated in this order, the Iowa Department of Education concludes that (1) school nurses and other school-based health professionals must comply with chapter 144D and (2) other school personnel may reasonably comply with chapter 144D.

Dated: 9-5-19

  
\_\_\_\_\_  
Ryan M. Wise, Ed. L. D.  
Director, Iowa Department of Education

CC: Nicole Proesch  
Thomas A. Mayes  
Melissa Walker  
David Tilly  
Barbara Guy  
Attorney General's Office