



Insights

Indiana Legislature Modifies Medical Consent and POST Statutes

March 26, 2018

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The Indiana Legislature recently made several significant and common sense changes to Indiana's medical consent statute (I.C. 16-36-1-1 *et. seq.*) and added a new section to the Indiana Code about Physician Orders for Scope of Treatment (POST) forms (I.C. 16-36-6-21), both of which are effective July 1, 2018. Healthcare providers, especially hospitals, should be aware of these changes and prepared to implement or revise policies and procedures to account for the expansion of Indiana's medical consent statute and POST forms.

The expanded medical consent statute states that surrogate decision makers for incapacitated patients will include any family member and even personal friends in a new hierarchical order set forth in the statute. In addition, in new section 9.5, a separated or divorcing spouse, an individual subject to a protective order, or an individual charged with a crime against the incapacitated patient will be ineligible to serve as the patient's surrogate decision maker. New section 17, will require healthcare providers to make a reasonable inquiry as to the availability of surrogate decision makers when a patient is incapacitated, which will need to include checking the medical records and personal effects of the incapacitated patient.

As of July 1, 2018, advanced practice nurses and physician assistants are permitted to sign Physician Orders for Scope of Treatment (POST) forms, including electronic signatures, and such forms must be written in English. A new section of the Indiana Code (I.C. 16-36-6-21) makes POST forms executed in another state effective in Indiana if the POST form was prepared and executed in accordance with that state's laws, a licensed physician, advanced practice nurse, or physician assistant and a qualified person or representative signed the POST form, and the POST form is in English. The provisions of the Act may be reviewed here.

If you have any questions regarding medical consent policies or POST forms, please do not hesitate to contact Robert A. Anderson at randerson@kdlegal.com, Stacy Walton Long at slong@kdlegal.com or your regular Krieg DeVault attorney.