



HOUSE BILL 1119: Fact Sheet

This bill makes changes to the Indiana Code in two areas relevant to healthcare. Changes will affect the Indiana POST (Physician Orders for Scope of Treatment) Act and the Healthcare Consent Act. The Healthcare Consent Act will impact who is able to make decisions when a patient loses capacity.

TO GO INTO EFFECT JULY 1, 2018

Healthcare Consent Hierarchy:

If an adult incapable of consenting has not appointed a health care representative/power of attorney for healthcare or the health care representative/POA is not available or declines to act, **consent to health care may be given in the following order of priority:**

1. Court appointed guardian
2. A spouse
3. An adult child (or majority of adult children*)
4. A parent
5. An adult sibling (or majority of adult siblings*)
6. A grandparent (or majority of grandparents*)
7. An adult grandchild (or majority of adult grandchildren*)
8. The nearest other adult relative in the next degree of kinship who is not listed above
9. An adult friend who has maintained regular contact with the individual and is familiar with the individual's activities, health and religious or moral beliefs
10. The individual's religious superior if the individual is a member of a religious order

*If there are multiple members at the same priority level, then the majority of available individuals controls.

The following individuals may NOT provide health care consent:

- A spouse who is **legally separated** or has a petition for dissolution, legal separation or annulment of marriage that is pending in court
- An individual who is **subject to a protective order** or other court order to avoid contact with the individual that is unable to make their own decisions
- An individual who is **subject to a pending criminal charge** in which the ill individual was the alleged victim

What happens if healthcare providers need to locate someone who can consent?

Healthcare providers **shall make a reasonable inquiry** as to the availability of individuals who are able to provide healthcare consent. **Reasonable inquiry includes** examining the medical records and personal effects. The healthcare provider **shall attempt to contact individuals** who are high in the priority level and able to provide consent by telephone or other means.

Indiana POST (Physician Orders for Scope of Treatment) Form:

- Treating physician, ***advanced practice nurse, or physician assistant*** may execute a POST form.
- **Document must be in English;** translated versions can be used for interpretation only
- Patient who is physically **unable to sign** may direct a person to sign on their behalf
- **May honor other state's version of POST** if similar to Indiana POST
- The above **hierarchy DOES NOT apply** to the POST form. Only a **legally appointed representative** can sign for an individual.