



## 96TH GENERAL ASSEMBLY

### State of Illinois

### 2009 and 2010

#### HB0748

Introduced 2/6/2009, by Rep. Kathleen A. Ryg

#### SYNOPSIS AS INTRODUCED:

210 ILCS 45/2-104.2  
755 ILCS 40/15

from Ch. 111 1/2, par. 4152-104.2  
from Ch. 110 1/2, par. 851-15

Amends the Nursing Home Care Act and the Health Care Surrogate Act. Provides that within 30 days after admission to a facility in the case of a new resident, and within one year after the effective date of the amendatory Act for all residents who were admitted before that date, residents, agents, and surrogates shall be given written information describing the facility's policies concerning DNR orders and shall be given the opportunity to execute a Living Will or Power of Attorney for Health Care, decline consent to life-sustaining treatment, and provide the facility with the name of a preferred surrogate. Provides that any such decision made by a resident, agent, or surrogate must be recorded in the resident's medical record and that any subsequent changes or modifications must also be recorded in the medical record. Provides that advance directives that a health care facility must maintain include a designation of a preferred surrogate should the person making the designation become incapacitated or impaired. Effective January 1, 2010.

LRB096 04246 DRJ 14292 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Nursing Home Care Act is amended by changing  
5 Section 2-104.2 as follows:

6 (210 ILCS 45/2-104.2) (from Ch. 111 1/2, par. 4152-104.2)  
7 Sec. 2-104.2. Do-Not-Resuscitate Orders.

8 (a) Every facility licensed under this Act shall establish  
9 a policy for the implementation of physician orders limiting  
10 resuscitation such as those commonly referred to as  
11 "Do-Not-Resuscitate" orders. This policy may only prescribe  
12 the format, method of documentation and duration of any  
13 physician orders limiting resuscitation. Any orders under this  
14 policy shall be honored by the facility. The Department of  
15 Public Health Uniform DNR Advance Directive or a copy of that  
16 Advance Directive shall be honored by the facility.

17 (b) Within 30 days after admission in the case of a new  
18 resident, and within one year after the effective date of this  
19 amendatory Act of the 96th General Assembly for all residents  
20 who were admitted before that date, residents, agents, and  
21 surrogates shall be given written information describing the  
22 facility's policies required by this Section and shall be given  
23 the opportunity to:

1           (1) Execute a Living Will or Power of Attorney for  
2           Health Care in accordance with State law, if they have not  
3           already done so.

4           (2) Decline consent to any or all of the  
5           life-sustaining treatment available at the facility.

6           (3) Provide the facility with the name or names of one  
7           or more preferred surrogates should the resident become  
8           incapacitated. The name or names are for informational  
9           purposes only and do not constitute an advance directive on  
10           the part of the resident.

11           (c) Any decision made by a resident, an agent, or a  
12           surrogate pursuant to subsection (b) of this Section must be  
13           recorded in the resident's medical record. Any subsequent  
14           changes or modifications must also be recorded in the medical  
15           record.

16           (Source: P.A. 94-865, eff. 6-16-06.)

17           Section 10. The Health Care Surrogate Act is amended by  
18           changing Section 15 as follows:

19           (755 ILCS 40/15) (from Ch. 110 1/2, par. 851-15)

20           Sec. 15. Applicability. This Act applies to patients who  
21           lack decisional capacity or who have a qualifying condition.  
22           This Act does not apply to instances in which the patient has  
23           an operative and unrevoked living will under the Illinois  
24           Living Will Act, an operative and unrevoked declaration for

1 mental health treatment under the Mental Health Treatment  
2 Preferences Declaration Act, or an authorized agent under a  
3 power of attorney for health care under the Illinois Power of  
4 Attorney Act and the patient's condition falls within the  
5 coverage of the living will, the declaration for mental health  
6 treatment, or the power of attorney for health care. In those  
7 instances, the living will, declaration for mental health  
8 treatment, or power of attorney for health care, as the case  
9 may be, shall be given effect according to its terms. This Act  
10 does apply in circumstances in which a patient has a qualifying  
11 condition but the patient's condition does not fall within the  
12 coverage of the living will, the declaration for mental health  
13 treatment, or the power of attorney for health care.

14 Each health care facility shall maintain any advance  
15 directives proffered by the patient or other authorized person,  
16 including a do not resuscitate order, a living will, a  
17 declaration for mental health treatment, a designation of a  
18 preferred surrogate should the person become incapacitated or  
19 impaired, or a power of attorney for health care, in the  
20 patient's medical records for the duration of the patient's  
21 stay. This Act does apply to patients without a qualifying  
22 condition. If a patient is an adult with decisional capacity,  
23 then the right to refuse medical treatment or life-sustaining  
24 treatment does not require the presence of a qualifying  
25 condition.

26 (Source: P.A. 90-246, eff. 1-1-98.)

1           Section 99. Effective date. This Act takes effect January  
2    1, 2010.