

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.9145 Nonopioid directive; form; revocation; exception for emergency; liability; definitions.

Sec. 9145.

(1) The department shall develop a nonopioid directive form indicating to health professionals and emergency medical services personnel that, except as otherwise provided in subsection (3) or in rules promulgated by the department under subsection (5), an individual who has executed the form or who has had a form executed on the individual's behalf must not be administered an opioid or offered a prescription for an opioid. The department shall include on the nonopioid directive form instructions on how the form may be revoked and any other information that the department considers relevant. The department shall make the form available to the public on the department's internet website.

(2) An individual may execute a nonopioid directive form on his or her own behalf. A guardian or patient advocate of an individual may execute a nonopioid directive form on behalf of the individual. If a nonopioid directive form is executed by or on behalf of an individual and is presented to a health professional, the health professional shall obtain a copy of the form and include the copy in the individual's medical record. An individual may revoke a nonopioid directive form executed by himself or herself at any time and in any manner by which he or she is able to communicate his or her intent to revoke the form. A patient advocate or guardian may revoke a nonopioid directive form on behalf of an individual at any time by issuing the revocation in writing and providing notice of the revocation to the individual's health professional or his or her delegatee.

(3) A prescriber who holds a controlled substances license under article 7 or a health professional who is a practical nurse or registered professional nurse and is acting on the order of the prescriber may administer an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if any of the following apply:

(a) The individual is being treated at a hospital or in a setting outside of a hospital in the case of an emergency and, in the prescriber's professional opinion, the administration of the opioid is medically necessary to treat the individual. If an opioid is administered under this subdivision, the prescriber shall ensure that the individual is provided with information on substance use disorder services as that term is defined in section 6230.

(b) The opioid is for intraoperative use.

(4) Except as otherwise provided by law, the following are not subject to civil or criminal liability or professional disciplinary action for failing to administer, prescribe, or dispense an opioid, or for the inadvertent administration of an opioid, to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf, if the failure to act or act was done reasonably and in good faith:

(a) A health professional whose scope of practice includes the prescribing, administering, or dispensing of a controlled substance.

(b) A health facility or agency licensed under article 17.

(c) An employee of a health professional.

(d) An employee of a health facility or agency licensed under article 17.

(e) Emergency medical services personnel.

(5) Subject to subsection (6), the department shall promulgate rules to implement this section. The rules must include, but not be limited to, all of the following:

(a) Procedures to record a nonopioid directive form in a medical record, including an electronic medical record.

(b) Procedures to revoke a nonopioid directive form.

(c) Procedures to ensure that the recording, disclosure, or distribution of data relating to a nonopioid directive form or the transmission of a nonopioid directive form complies with state and federal confidentiality and consent laws, rules, and regulations.

(d) Exemptions for administering or prescribing an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if the opioid is administered or prescribed to treat the individual for a substance use disorder.

(e) Exemptions for administering or prescribing an opioid to an individual who has executed a nonopioid directive form or who has had a nonopioid directive form executed on his or her behalf if the individual is a hospice patient.

(6) The rules promulgated under this section must allow a health professional or health facility or agency licensed under article 17 to incorporate a nonopioid directive form into an existing patient form or into other documentation used by the health professional or health facility or agency.

(7) As used in this section:

(a) "Emergency medical services personnel" means that term as defined in section 20904.

(b) "Guardian" means a person with the powers and duties to make medical treatment decisions on behalf of a

patient to the extent granted by court order under section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(c) "Health professional" means an individual who is licensed under article 15.

(d) "Nonopioid directive form" or "form" means the nonopioid directive form developed by the department under subsection (1).

(e) "Patient advocate" means an individual designated to make medical treatment decisions for a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(f) "Prescriber" means that term as defined in section 17708.

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