

2023 Regular Session

HOUSE BILL NO. 599

BY REPRESENTATIVE DUSTIN MILLER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

NURSES: Authorizes certain healthcare practitioners to complete documentation related to illness and end of life treatment

1 AN ACT

2 To amend and reenact R.S. 17:500(B)(1), 500.1(A), (B), and (C)(2),

3 500.2(A)(2)(introductory paragraph) and (c), (D)(1)(b), and E(1)(a), (2)(a) through

4 (c), and (e), 1201(A)(2) and (C)(1)(a), (b)(i) through (iii), and (v), 1202(A)(1)(b) and

5 (2)(introductory paragraph) and (d), (D)(1)(b), and (E)(1)(a) and (c), (2)(a) through

6 (c), and (3), 1206(A)(1), 1206.1(A)(1), (B), (C), and (D)(2), 1206.2(D)(1)(b),

7 (E)(1)(a) and (c), (2)(a) through (c), and (3), R.S. 40:1151(A)(3)(a),

8 1151.1(introductory paragraph), (1), (6), (10), and (11), 1151.2(B), (C)(1), and

9 (D)(2), 1151.3(A)(2)(b) and (3)(b) and (c) and (B), 1151.6(A) through (D),

10 1151.7(A) and (B), the heading of Subpart C of Part I of Subchapter A of Chapter

11 5-D of Title 40 of the Louisiana Revised Statutes of 1950, 1155.1(A)(3) and (4)(a)

12 and (B)(1) and (2), 1155.2(introductory paragraph), (1) through (3), and (8) and (9),

13 1155.3(A), (B)(5), and (D), 1155.4(A) through (C), and 1155.5(A)(1) and (2) and

14 to enact R.S. 17:1200(D) and R.S. 40:1155.3(B)(6), relative to signature authority

15 for healthcare providers; to provide for advanced practice registered nurse (APRN)

16 and physician assistant signature authority to issue certification of illness or

17 condition for the purposes of sick and extended sick leave for teachers, teaching

18 staff, and bus drivers; to provide for APRN signature authority for a declaration of

19 a "do not resuscitate" order; to provide for APRN signature authority for LaPOST;

20 to provide for definitions; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 17:500(B)(1), 500.1(A), (B), and (C)(2), 500.2(A)(2)(introductory  
3 paragraph) and (c), (D)(1)(b), and E(1)(a), (2)(a) through (c), and (e), 1201(A)(2) and  
4 (C)(1)(a), (b)(i) through (iii), and (v), 1202(A)(1)(b) and (2)(introductory paragraph) and (d),  
5 (D)(1)(b), and (E)(1)(a) and (c), (2)(a) through (c), and (3), 1206(A)(1), 1206.1(A)(1), (B),  
6 (C), and (D)(2), 1206.2(D)(1)(b), (E)(1)(a) and (c), (2)(a) through (c), and (3) are hereby  
7 amended and reenacted and R.S. 17:1200(D) is hereby enacted to read as follows:

8 §500. Sick leave for school bus operators; minimum pay for substitute

9 \* \* \*

10 B.(1) All school bus operators employed by the parish and the city school  
11 boards of this state shall be entitled to and shall be allowed a minimum of ten days  
12 absence per school year because of personal illness or because of other emergencies  
13 or special circumstances, without loss of pay. Such sick leave when not used in any  
14 year shall be accumulated to the credit of the school bus operator without limitation.

15 When a school bus operator is absent for six or more consecutive days because of  
16 personal illness, he shall be required to present a certificate from a provider  
17 certifying such illness. As used in this Subpart "provider" means a physician,  
18 physician assistant providing ~~health care~~ healthcare services in accordance with R.S.  
19 37:1360.28, or ~~nurse practitioner~~ an advanced practice registered nurse providing  
20 ~~health care~~ healthcare services in accordance with R.S. 37:913 ~~certifying such~~  
21 ~~illness.~~ The parish and city school boards are authorized to adopt such rules and  
22 regulations as are necessary relative to the use of such sick leave, either current or  
23 accumulated, for emergencies or special circumstances. The parish and city school  
24 boards may grant additional sick leave, without loss of pay, or with such reduction  
25 of pay as they may establish and fix.

26 \* \* \*

27 §500.1. School bus operators; sick leave

28 A. A school bus operator as defined in R.S. 17:500 who is injured in his  
29 official capacity as a result of physical assault and battery by any student or person  
30 and is disabled as a result of such injury and cannot perform his functions as a school

1 bus operator, shall receive sick leave without reduction in pay while disabled as a  
 2 result of such injury. If a school bus operator is absent for six or more consecutive  
 3 days as a result of such disability, he shall be required to present a certificate from  
 4 a ~~physician~~ provider certifying the disability. The sick leave authorized by this  
 5 Section shall be in addition to all other sick leave authorized by R.S. 17:500,  
 6 provided that additional sick leave for disability as a result of physical assault and  
 7 battery shall not be accumulated from year to year, nor shall such additional sick  
 8 leave be compensated for at death or retirement, or compensated for in any other  
 9 manner except as authorized in this Section.

10 B. At any time during the period of certified disability, if the school board  
 11 questions the validity of the ~~physician~~ provider certification, the board may require  
 12 the school bus operator to be examined by a ~~physician~~ provider selected by the  
 13 board. In such a case, the board shall pay all costs of the examination and any tests  
 14 determined to be necessary. If the ~~physician~~ provider selected by the board certifies  
 15 the disability, the leave shall be granted or continued as appropriate. If the ~~physician~~  
 16 provider selected by the board disagrees with the certification of the ~~physician~~  
 17 provider selected by the school bus operator, the board may require the school bus  
 18 operator to be examined by a third ~~physician~~ provider whose name appears next in  
 19 the rotation of ~~physicians~~ provider on a list established by the local or state medical  
 20 society for such purpose and maintained by the board. All costs of an examination  
 21 and any tests required by a third ~~physician~~ providers shall be paid by the board. The  
 22 opinion of the third ~~physician~~ provider shall be determinative of the issue.

23 C.

24 \* \* \*

25 (2) If the school bus operator's ~~physician~~ provider determines that he is able  
 26 to return to active service as a school bus operator with restrictions and the board  
 27 does not allow the school bus operator to return to active service as a school bus  
 28 operator subject to those restrictions, then the school bus operator's leave shall be  
 29 granted or continued, as appropriate, as provided in this Section.

30 \* \* \*

1 §500.2. School bus operators; extended sick leave

2 A.

3 \* \* \*

4 (2) As used in this Section, the following terms ~~shall~~ have the following  
5 meanings:

6 \* \* \*

7 (c) "Medical necessity" means the result of catastrophic illness or injury, a  
8 life threatening condition, a chronic condition, or an incapacitating condition, as  
9 certified by a ~~physician~~ provider, of a school bus operator or an immediate family  
10 member.

11 \* \* \*

12 D.(1) No school bus operator may undertake additional gainful employment  
13 while on extended sick leave, unless all of the following conditions are met:

14 \* \* \*

15 (b) The ~~physician~~ provider who certifies the medical necessity of the leave  
16 indicates that such part-time work does not impair the purpose for which the  
17 extended leave is required.

18 \* \* \*

19 E.(1)(a) On every occasion that a school bus operator uses extended sick  
20 leave, a statement from a ~~licensed physician~~ provider certifying that it is a medical  
21 necessity for the school bus operator to be absent for at least ten consecutive work  
22 days shall be presented prior to the extension of such leave.

23 (2)(a) If the board or superintendent, upon review of the application,  
24 questions the validity or accuracy of the certification, the board or superintendent,  
25 as the case may be, referred to in this Paragraph as the "challenging party", may  
26 require the school bus operator or the immediate family member, as a condition for  
27 continued extended leave, to be examined by a ~~licensed physician~~ provider selected  
28 by the challenging party. In such a case, the employer shall pay all costs of the  
29 examination and any tests determined to be necessary. If the ~~physician~~ provider  
30 selected by the challenging party finds medical necessity, the leave shall be granted.

1 (b) If the ~~physician~~ provider selected by the challenging party disagrees with  
 2 the certification of the ~~physician~~ provider selected by the school bus operator, then  
 3 the challenging party may require the school bus operator or the immediate family  
 4 member, as a condition for continued extension of sick leave, to be examined by a  
 5 third ~~licensed~~ appropriate ~~physician~~ provider whose name appears next in the  
 6 rotation of ~~physicians~~ providers on a list established by the local medical society for  
 7 such purpose and maintained by the challenging party. All costs of an examination  
 8 and any required tests by a third doctor shall be paid by the employer. The opinion  
 9 of the third ~~physician~~ provider shall be determinative of the issue.

10 (c) The opinion of all ~~physicians~~ providers consulted as provided in this  
 11 Paragraph shall be submitted to the challenging party in the form of a sworn  
 12 statement which shall be subject to the provisions of R.S. 14:125.

13 \* \* \*

14 (e) All information contained in any statement from a ~~physician~~ provider  
 15 shall be confidential and shall not be subject to the public records law.

16 \* \* \*

17 §1200. Definitions

18 \* \* \*

19 D. As used in this Subpart, "provider" means a licensed physician, physician  
 20 assistant providing healthcare services in accordance with R.S. 37:1360.28, or an  
 21 advanced practice registered nurse providing healthcare services in accordance with  
 22 R.S. 37:913.

23 §1201. Amount of sick leave; reimbursement; injury on the job

24 A.

25 \* \* \*

26 (2) When a member of the teaching staff is absent for six or more  
 27 consecutive days because of personal illness, he shall be required to present a  
 28 certificate from a provider ~~physician, physician assistant providing health care~~  
 29 ~~services in accordance with R.S. 37:1360.28, or nurse practitioner providing health~~  
 30 ~~care services in accordance with R.S. 37:913 certifying such illness.~~ Each parish and

1 city school board may adopt such rules and regulations as are necessary relative to  
2 the use of such sick leave, either current or accumulated, for emergencies or special  
3 circumstances. The parish and city school boards may grant additional sick leave,  
4 without loss of pay, or with such reduction of pay as they may establish and fix.

5 \* \* \*

6 C.(1)(a) Any member of the teaching staff of the public schools who is  
7 injured or disabled while acting in his official capacity as a result of assault or  
8 battery by any student or person shall receive sick leave without reduction in pay and  
9 without reduction in accrued sick leave days while disabled as a result of such assault  
10 or battery. However, such member of the teaching staff shall be required to present  
11 a certificate from a ~~physician~~ provider certifying such injury and disability. If the  
12 member of the teaching staff who is receiving sick leave without reduction as  
13 provided in this Section begins to draw his benefit from the Teachers' Retirement  
14 System of Louisiana, the leave shall cease.

15 (b)(i) A member of the teaching staff of the public schools who while acting  
16 in his official capacity is disabled as a result of physical contact with a student while  
17 providing physical assistance to a student to prevent danger or risk of injury to the  
18 student shall receive sick leave for a period up to one calendar year without reduction  
19 in pay and without reduction in accrued sick leave days while disabled as a result of  
20 rendering such assistance. Such member of the teaching staff shall be required to  
21 present a certificate from a ~~physician~~ provider selected by the teaching staff member  
22 certifying the disability. Nothing in this Subsection shall prohibit a city, parish, or  
23 other local public school board from extending this period beyond one calendar year.

24 (ii) At any time during the period of certified disability, if the school board  
25 questions the validity of the ~~physician~~ provider certification provided for in this  
26 Section, the board may require the teaching staff member to be examined by a  
27 ~~physician~~ provider selected by the board. In such a case, the board shall pay all costs  
28 of the examination and any tests determined to be necessary. If the ~~physician~~  
29 provider selected by the board certifies the disability, the leave shall be granted or  
30 continued as appropriate. If the ~~physician~~ provider selected by the board disagrees

1 with the certificate of the ~~physician~~ provider selected by the staff member, then the  
 2 board may require the staff member to be examined by a third ~~physician~~ provider  
 3 whose name appears next in the rotation of ~~physicians~~ providers on a list established  
 4 by the local or state medical society for such purpose and maintained by the board.  
 5 All costs of an examination and any tests required by a third ~~physician~~ provider shall  
 6 be paid by the board. The opinion of the third ~~physician~~ provider shall be  
 7 determinative of the issue.

8 (iii) The opinion of each ~~physician~~ provider consulted as provided in this  
 9 Subparagraph shall be submitted to the school board in the form of a sworn statement  
 10 that shall be subject to the provisions of R.S. 14:125.

11 \* \* \*

12 (v) If the member of the teaching staff's ~~physician~~ provider determines that  
 13 the member is able to return to active service as a member of the teaching staff with  
 14 restrictions and the board does not allow the member to return to active service as  
 15 a member of the teaching staff subject to those restrictions, then the member's leave  
 16 shall be granted or continued as provided in this Subsection.

17 \* \* \*

18 § 1202. Teachers; extended sick leave

19 A.(1) Every city, parish, and other local public school board shall permit:

20 \* \* \*

21 (b) Each teacher granted maternity or adoptive leave in accordance with the  
 22 provisions of R.S. 17:48 or 1211 and who has no remaining sick leave balance  
 23 available to take in the manner provided in this Section up to thirty days of additional  
 24 extended sick leave in each six-year period of employment for personal illness  
 25 relating to pregnancy, illness of an infant, or for required medical visits certified by  
 26 a ~~physician~~ provider as relating to infant or maternal health.

27 (2) As used in this Section the following terms ~~shall~~ have the following  
 28 meanings:

29 \* \* \*

1 (d) "Medical necessity" means the result of catastrophic illness or injury, a  
2 life threatening condition, a chronic condition, or an incapacitating condition, as  
3 certified by a ~~physician~~ provider, of a teacher or an immediate family member.

4 \* \* \*

5 D.(1) No teacher may undertake additional gainful employment while on  
6 extended sick leave, unless all of the following conditions are met:

7 \* \* \*

8 (b) The ~~physician~~ provider who certifies the medical necessity of the leave  
9 indicates that such part-time work does not impair the purpose for which the  
10 extended leave is required.

11 \* \* \*

12 E.(1)(a) On every occasion that a teacher uses extended sick leave, a  
13 statement from a ~~licensed physician~~ provider certifying that it is for personal illness  
14 relating to pregnancy, illness of an infant, or for required medical visits related to  
15 infant or maternal health or that it is a medical necessity shall be presented prior to  
16 the extension of such leave.

17 (c) The ~~physician~~ provider statement required by this Paragraph may be  
18 presented and the extended sick leave may be requested subsequent to the teacher's  
19 return to service. In such a case, the extended leave shall be granted for all days for  
20 which such leave is requested and the required documentation is presented provided  
21 the leave is requested and the required documentation is presented within three days  
22 after the teacher returns to service.

23 (2)(a) If the board or superintendent, upon review of the application,  
24 questions the validity or accuracy of the certification, the board or superintendent,  
25 as the case may be, referred to in this Paragraph as the "challenging party", may  
26 require the teacher or the immediate family member, as a condition for continued  
27 extended leave, to be examined by a ~~licensed physician~~ provider selected by the  
28 challenging party. In such a case, the employer shall pay all costs of the examination  
29 and any tests determined to be necessary. If the physician selected by the  
30 challenging party finds medical necessity, the leave shall be granted.

1 (b) If the ~~physician~~ provider selected by the challenging party disagrees with  
 2 the certification of the physician selected by the teacher or the immediate family  
 3 member, then the challenging party may require the teacher or the immediate family  
 4 member, as a condition for continued extension of sick leave, to be examined by a  
 5 third ~~licensed~~ appropriate physician provider whose name appears next in the  
 6 rotation of ~~physicians~~ providers on a list established by the local medical society for  
 7 such purpose and maintained by the challenging party. All costs of an examination  
 8 and any required tests by a third ~~doctor~~ provider shall be paid by the employer. The  
 9 opinion of the third physician provider shall be determinative of the issue.

10 (c) The opinion of all ~~physicians~~ providers consulted as provided in this  
 11 Paragraph shall be submitted to the challenging party in the form of a sworn  
 12 statement which shall be subject to the provisions of R.S. 14:125.

13 \* \* \*

14 (3) All information contained in any statement from a physician provider  
 15 shall be confidential and shall not be subject to the public records law.

16 \* \* \*

17 §1206. Ten days sick leave for employees; cumulation of unused sick leave

18 A.(1) All such employees, as defined in R.S. 17:1205, shall be entitled to and  
 19 shall be allowed a minimum of ten days leave of absence as sick leave or in case of  
 20 other emergencies or special circumstances, per school year, without loss of pay.  
 21 Any portion of such sick leave not used in any year shall be accumulated to the credit  
 22 of the employee without limitation. When such employee is absent for six or more  
 23 consecutive days because of personal illness, he shall be required to present a  
 24 certificate from a provider. ~~physician, physician assistant providing health care~~  
 25 ~~services in accordance with R.S. 37:1360.28, or nurse practitioner providing health~~  
 26 ~~care services in accordance with R.S. 37:913 certifying such illness.~~ Each parish and  
 27 city school board may adopt such rules and regulations as are necessary relative to  
 28 the use of such sick leave, either current or accumulated, for emergencies or special  
 29 circumstances. The parish and city school boards may grant additional sick leave,  
 30 without loss of pay, or with such reduction of pay as they may establish and fix.

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\* \* \*

§1206.1. School employees; sick leave

A.(1) An employee of a city, parish, or other local public school board, as the word "employee" is defined in R.S. 17:1205, who is disabled while acting in his official capacity as a result of assault or battery by any student or person, shall receive sick leave without reduction in pay and without reduction in accrued sick leave days while disabled as a result of such assault or battery; however, if the employee is absent for six or more consecutive days as a result of such disability, he shall be required to present a certificate from a ~~physician~~ provider certifying the disability. If the employee who is receiving sick leave without reduction as described in this Section begins to draw his benefit from the Teachers' Retirement System of Louisiana or the Louisiana School Employees' Retirement System, the leave shall cease.

\* \* \*

B. An employee of the parish or city school boards of this state, as the word "employee" is defined in R.S. 17:1205, who is disabled while acting in his official capacity as a result of physical contact with a student while providing physical assistance to a student to prevent danger or risk of injury to the student, shall receive sick leave for a period up to ninety days without reduction in pay and without reduction in accrued sick leave days while disabled as a result of rendering such assistance. Such employee shall be required to present a certificate from a ~~physician~~ provider certifying the disability. Nothing in this Section shall prohibit a city or parish school board from extending this period beyond ninety days.

C. At any time during the period of certified disability, if the school board questions the validity or accuracy of the ~~physician~~ provider certification, the board may require the employee to be examined by a ~~physician~~ provider selected by the board. In such a case, the board shall pay all costs of the examination and any tests determined to be necessary. If the ~~physician~~ provider selected by the board certifies the disability, the leave shall be granted or continued as appropriate. If the physician selected by the board disagrees with the certification of the ~~physician~~ provider

1 selected by the employee, the board may require the employee to be examined by a  
2 third ~~physician~~ provider whose name appears next in the rotation of ~~physicians~~  
3 providers on a list established by the local or state medical society for such purpose  
4 and maintained by the board. All costs of an examination and any tests required by  
5 a third provider shall be paid by the board. The opinion of the third ~~physician~~  
6 provider shall be determinative of the issue.

7 D.

8 \* \* \*

9 (2) If the employee's ~~physician~~ provider determines that he is able to return  
10 to active service as a school employee with restrictions and the board does not allow  
11 the employee to return to active service as a school employee subject to those  
12 restrictions, then the employee's leave shall be granted or continued, as appropriate,  
13 as provided in this Section.

14 §1206.2. Employees; extended sick leave

15 \* \* \*

16 D.(1) No employee may undertake additional gainful employment while on  
17 extended sick leave, unless all of the following conditions are met:

18 \* \* \*

19 (b) The ~~physician~~ provider who certifies the medical necessity of the leave  
20 indicates that such part-time work does not impair the purpose for which the  
21 extended leave is required.

22 \* \* \*

23 E.(1)(a) On every occasion when an employee uses extended sick leave, a  
24 statement from a ~~licensed physician~~ provider certifying that it is a medical necessity  
25 for the employee to be absent for at least ten consecutive work days shall be  
26 presented prior to the extension of such leave.

27 (c) The ~~physician~~ provider statement required by this Paragraph may be  
28 presented and the extended sick leave may be requested subsequent to the employee's  
29 return to service. In such a case, the extended leave shall be granted for all days for  
30 which such leave is requested and the required documentation is presented provided

1 the leave is requested and the required documentation is presented within three days  
2 after the employee returns to service.

3 (2)(a) If the board or superintendent, upon review of the application,  
4 questions the validity or accuracy of the certification, the board or superintendent,  
5 as the case may be, referred to in this Paragraph as the "challenging party", may  
6 require the employee or the immediate family member, as a condition for continued  
7 extended leave, to be examined by a licensed ~~physician~~ provider selected by the  
8 challenging party. In such a case, the employer shall pay all costs of the examination  
9 and any tests determined to be necessary. If the ~~physician~~ provider selected by the  
10 challenging party finds medical necessity, the leave shall be granted.

11 (b) If the ~~physician~~ provider selected by the challenging party disagrees with  
12 the certification of the ~~physician~~ provider selected by the employee or the immediate  
13 family member, then the challenging party may require the employee or the  
14 immediate family member, as a condition for continued extension of sick leave, to  
15 be examined by a third ~~licensed~~ appropriate ~~physician~~ provider whose name appears  
16 next in the rotation of ~~physicians~~ providers on a list established by the local medical  
17 society for such purpose and maintained by the challenging party. All costs of an  
18 examination and any required tests by a third doctor shall be paid by the employer.  
19 The opinion of the third ~~physician~~ provider shall be determinative of the issue.

20 (c) The opinion of all ~~physicians~~ providers consulted as provided in this  
21 Paragraph shall be submitted to the challenging party in the form of a sworn  
22 statement which shall be subject to the provisions of R.S. 14:125.

23 \* \* \*

24 (3) All information contained in any statement from a ~~physician~~ provider  
25 shall be confidential and shall not be subject to the public records law.

26 \* \* \*

27 Section 2. R.S. 40:1151(A)(3)(a), 1151.1(introductory paragraph), (1), (6), (10), and  
28 (11), 1151.2(B), (C)(1), and (D)(2), 1151.3(A)(2)(b) and (3)(b) and (c) and (B), 1151.6(A)  
29 through (D), 1151.7(A) and (B), the heading of Subpart C of Part I of Subchapter A of  
30 Chapter 5-D of Title 40 of the Louisiana Revised Statutes of 1950, 1155.1(A)(3) and (4)(a)

1 and (B)(1) and (2), 1155.2(introductory paragraph), (1) through (3), and (8) and (9),  
2 1155.3(A), (B)(5), and (D), 1155.4(A) through (C), and 1155.5(A)(1) and (2) are hereby  
3 amended and reenacted and R.S. 1155.3(B)(6) is hereby enacted to read as follows:

4 §1151. Legislative purpose, findings and intent

5 A.

6 \* \* \*

7 (3) In order that the rights of such persons may be respected even after they  
8 are no longer able to participate actively in decisions concerning themselves, the  
9 legislature hereby declares that the laws of the state of Louisiana shall recognize:

10 (a) The right of such a person to make a declaration instructing his ~~physician~~  
11 provider to withhold or withdraw life-sustaining procedures or designating another  
12 to make the treatment decision and make such a declaration for him, in the event he  
13 is diagnosed as having a terminal and irreversible condition, ~~and~~

14 \* \* \*

15 §1151.1. Definitions

16 As used in this Subpart, the following words ~~shall~~ have the meanings  
17 ascribed to them unless the context clearly states otherwise:

18 (1) "Attending ~~physician~~ provider" means the ~~physician~~ provider who has  
19 primary responsibility for the treatment and care of the patient.

20 \* \* \*

21 (6) "~~Health care provider~~ Healthcare facility" means any health maintenance  
22 organization, home health agency, hospice, hospital, or nursing facility.

23 \* \* \*

24 (10) "~~Physician~~" "Provider" means either of the following:

25 (a) a A physician or surgeon licensed by the Louisiana State Board of  
26 Medical Examiners or by the official licensing authority of another state.

27 (b) An advanced practice registered nurse in accordance with R.S. 37:913  
28 licensed by the Louisiana State Board of Nursing.

29 (11) "Qualified patient" means a patient diagnosed and certified in writing  
30 as having a terminal and irreversible condition by two ~~physicians~~ providers who have

1 personally examined the patient, one of whom shall be the attending ~~physician~~  
2 provider.

3 \* \* \*

4 §1151.2. Making of declaration; notification; illustrative form; registry; issuance of  
5 do-not-resuscitate identification bracelets

6 \* \* \*

7 B.(1) It shall be the responsibility of the declarant to notify his attending  
8 ~~physician~~ provider that a declaration has been made.

9 (2) In the event the declarant is comatose, incompetent, or otherwise  
10 mentally or physically incapable of communication, any other person may notify the  
11 ~~physician~~ provider of the existence of the declaration. In addition, the attending  
12 ~~physician~~ provider or ~~health-care~~ healthcare facility may directly contact the registry  
13 to determine the existence of any such declaration.

14 (3) Any attending ~~physician~~ provider who is so notified, or who determines  
15 directly or is advised by the ~~health-care~~ healthcare facility that a declaration is  
16 registered, shall promptly make the declaration or a copy of the declaration, if  
17 written, or a notation of the existence of a registered declaration, a part of the  
18 declarant's medical record.

19 (4) If the declaration is oral or nonverbal, the ~~physician~~ provider shall  
20 promptly make a recitation of the reasons the declarant could not make a written  
21 declaration and make the recitation a part of the patient's medical records.

22 C.(1) The declaration may, but need not, be in the following illustrative form  
23 and may include other specific directions including but not limited to a designation  
24 of another person to make the treatment decision for the declarant should he be  
25 diagnosed as having a terminal and irreversible condition and be comatose,  
26 incompetent, or otherwise mentally or physically incapable of communications:

27 "DECLARATION

28 Declaration made this \_\_\_\_\_ day of \_\_\_\_\_ (month, year).

1 I, \_\_\_\_\_, being of sound mind, willfully and voluntarily make  
2 known my desire that my dying shall not be artificially prolonged under the circumstances  
3 set forth below and do hereby declare:

4 If at any time I should have an incurable injury, disease or illness, or be in a continual  
5 profound comatose state with no reasonable chance of recovery, certified to be a terminal  
6 and irreversible condition by two ~~physicians~~ providers who have personally examined me,  
7 one of whom shall be my attending ~~physician~~ provider, and the ~~physicians~~ providers have  
8 determined that my death will occur whether or not life-sustaining procedures are utilized  
9 and where the application of life-sustaining procedure would serve only to prolong  
10 artificially the dying process, I direct (initial one only):

11 \_\_\_ That all life-sustaining procedures, including nutrition and hydration, be withheld  
12 or withdrawn so that food and water will not be administered invasively.

13 \_\_\_ That life-sustaining procedures, except nutrition and hydration, be withheld or  
14 withdrawn so that food and water can be administered invasively.

15 I further direct that I be permitted to die naturally with only the administration of  
16 medication or the performance of any medical procedure deemed necessary to provide me  
17 with comfort care.

18 In the absence of my ability to give directions regarding the use of such life-  
19 sustaining procedures, it is my intention that this declaration shall be honored by my family  
20 and ~~physician(s)~~ provider(s) as the final expression of my legal right to refuse medical or  
21 surgical treatment and accept the consequences from such refusal.

22 I understand the full import of this declaration and I am emotionally and mentally  
23 competent to make this declaration.

24 Signed \_\_\_\_\_  
25 City, Parish, and State of Residence \_\_\_\_\_

26 The declarant has been personally known to me and I believe him or her to be of  
27 sound mind.

28 Witness \_\_\_\_\_  
29 Witness \_\_\_\_\_"

30 \* \* \*  
Page 15 of 22

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 D.

2 \* \* \*

3 (2) Any attending ~~physician provider~~ or ~~health care~~ healthcare facility may,  
4 orally or in writing, request the secretary of state to confirm immediately the  
5 existence of a declaration and to disclose the contents thereof for any patient  
6 believed to be a resident of Louisiana. A copy of the declaration or a facsimile  
7 thereof transmitted from the office of the secretary of state shall be deemed  
8 authentic. However, nothing ~~herein in this Paragraph~~ requires a ~~physician provider~~  
9 or ~~health care~~ healthcare facility to confirm the existence of such declaration or  
10 obtain a copy thereof prior to the withholding or withdrawal of medical treatment or  
11 life-sustaining procedures.

12 \* \* \*

13 §1151.3. Revocation of declaration

14 A. A declaration may be revoked at any time by the declarant without regard  
15 to his or her mental state or competency by any of the following methods:

16 \* \* \*

17 (2)

18 \* \* \*

19 (b) The attending ~~physician provider~~ shall record in the patient's medical  
20 record the time and date when notification of the written revocation was received.

21 (3)

22 \* \* \*

23 (b) Such revocation by any method enumerated in this Section shall become  
24 effective upon communication to the attending ~~physician provider~~.

25 (c) The attending ~~physician provider~~ shall record in the patient's medical  
26 records the time and date when notification of the revocation was received.

27 B. A declaration registered with the secretary of state's office may be  
28 revoked by the filing of a written notice of revocation in that office. The secretary  
29 of state shall indicate on the declaration the date and time the notice of revocation  
30 was received in his office. Until the notation has been indicated on the declaration,

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1 any ~~physician provider~~ or ~~health care~~ healthcare facility acting in good faith may rely  
2 upon the validity of the declaration.

3 \* \* \*

4 §1151.6. ~~Physician, health care provider~~ Provider, healthcare facility, and licensed  
5 emergency medical services practitioner responsibility

6 A. Any attending ~~physician provider~~ who has been notified of the existence  
7 of a declaration made ~~under~~ pursuant to this Subpart or at the request of the proper  
8 person as provided in R.S. 40:1151.4 or R.S. 40:1151.5 upon diagnosis of a terminal  
9 and irreversible condition of the patient, or who on his own determines the existence  
10 of a declaration on file in the registry, shall take necessary steps to provide for  
11 written certification of the patient's terminal and irreversible condition, so that the  
12 patient may be deemed to be a qualified patient as defined in R.S. 40:1151.1.

13 B. Any attending ~~physician provider~~ who refuses to comply with the  
14 declaration of a qualified patient or declaration otherwise made pursuant to this  
15 Subpart shall make a reasonable effort to transfer the patient to another ~~physician~~  
16 provider.

17 C. No provision of this Subpart imposes a duty upon the ~~physician provider~~  
18 or ~~health care~~ healthcare facility to make a search of the registry for the existence of  
19 a declaration.

20 D. If the policies of a ~~health care provider~~ healthcare facility preclude  
21 compliance with the declaration of a qualified patient ~~under~~ pursuant to this Subpart  
22 or preclude compliance with the provisions pertaining to a representative acting on  
23 behalf of a qualified patient, then the provider shall take all reasonable steps to  
24 transfer the patient to a provider with which the provisions of this Subpart can be  
25 effectuated.

26 \* \* \*

27 §1151.7. Immunity from liability

28 A.(1) Any ~~health care~~ healthcare facility, ~~physician provider~~, or other person  
29 acting under the direction of a ~~physician provider~~ shall not be subject to criminal  
30 prosecution or civil liability or be deemed to have engaged in unprofessional conduct

1 as a result of the withholding or the withdrawal of life-sustaining procedures from  
2 a qualified patient who has made a declaration or is wearing a do-not-resuscitate  
3 identification bracelet in accordance with the provisions of this Subpart.

4 (2) Any person, ~~health care~~ healthcare facility, ~~physician~~ provider, or other  
5 person acting under the direction of a ~~physician~~ provider who authorizes the  
6 withholding or withdrawal of life-sustaining procedures in accordance with a  
7 qualified patient's declaration or do-not-resuscitate identification bracelet, or as  
8 otherwise provided in this Subpart shall not be subject to criminal prosecution or  
9 civil liability for such action.

10 B. In instances where a patient diagnosed as having a terminal and  
11 irreversible condition or his representative utilized means other than those in  
12 accordance with the provisions of this Subpart to document or manifest the patient's  
13 intention and desire that medical treatment or life-sustaining procedures be withheld  
14 or withdrawn, any ~~health care~~ healthcare facility, ~~physician~~ provider, or other person  
15 acting under the direction of a ~~physician~~ provider shall not be subject to criminal  
16 prosecution or civil liability or be deemed to have engaged in unprofessional conduct  
17 as a result of the withholding or withdrawal of life-sustaining procedures when the  
18 ~~health care~~ healthcare facility, ~~physician~~ provider, or other person acting under the  
19 direction of a ~~physician~~ provider has acted in good faith reliance on the patient's or  
20 his representative's manifestations that medical treatment or life-sustaining  
21 procedures be withheld or withdrawn and the continued utilization of life-sustaining  
22 procedures would, within reasonable medical judgment, serve only to prolong the  
23 dying process.

24 \* \* \*

25 SUBPART C. LOUISIANA ~~PHYSICIAN~~ PROVIDER ORDER FOR SCOPE OF  
26 TREATMENT

27 §1155.1. Legislative purpose, findings, and intent

28 A. The legislature finds and declares all of the following:

29 \* \* \*

1 (3) The Louisiana ~~Physician~~ Provider Order for Scope of Treatment  
2 "LaPOST" form documents the wishes of a qualified patient in a ~~physician~~ provider  
3 order.

4 (4) The hallmarks of the LaPOST form are the following:

5 (a) Immediately actionable, signed ~~physician~~ provider orders on a  
6 standardized form.

7 \* \* \*

8 B.(1) The legislature intends that the provisions of this Subpart are  
9 permissive and voluntary. The legislature further intends that the completion of the  
10 Louisiana ~~Physician~~ Provider Order for Scope of Treatment form merely illustrates  
11 a means of documenting a decision of a patient relative to withholding or withdrawal  
12 of medical treatment or life-sustaining procedures.

13 (2) It is the intent of the legislature that nothing in this Subpart shall be  
14 construed to require the completion of a Louisiana ~~Physician~~ Provider Order for  
15 Scope of Treatment form pursuant to this Subpart.

16 \* \* \*

17 §1155.2. Definitions

18 As used in this Subpart, the following terms ~~shall~~ have the meanings ascribed  
19 to them unless the context clearly states otherwise:

20 (1) "Attending ~~physician~~ provider" means the ~~physician~~ provider who has  
21 primary responsibility for the treatment and care of the patient.

22 (2) "~~Health care provider~~" "Healthcare facility" means any home health  
23 agency, hospice, hospital, or nursing facility.

24 (3) "LaPOST" means Louisiana ~~Physician~~ Provider Order for Scope of  
25 Treatment as provided in R.S. 40:1155.2.1.

26 \* \* \*

27 (8) "~~Physician~~" "Provider" means any of the following:

28 (a) a A physician or surgeon licensed by the Louisiana State Board of  
29 Medical Examiners or by the official licensing authority of another state.





- (1) Certifying an illness or disability of school bus operators and teaching staff for the purpose of sick leave, extended sick leave, and disputes arising out of the use of sick leave and extended sick leave.
- (2) Certifying an illness or disability of teachers for the purpose of extended sick leave, disputes arising out of the use of sick leave and extended, sick leave, and sick leave as a result of disability that resulted from an assault or battery by a student.
- (3) Confirming, identifying, and revoking do-not-resuscitate (DNR) declarations and matters related to DNR declarations.
- (4) Documenting the wishes of a qualified patient with respect to the scope of treatment in the event of life-limiting and irreversible conditions via use of the La. Physician Order for Scope of Treatment (LaPOST) form.

Proposed law extends the authority of a "physician" as described in present law to PAs and APRNs under the new term "provider" with respect to school employee sick leave.

Proposed law extends the authority of "physician" as described in present law to APRNs under the term "provider" with respect to DNR forms and LaPOST.

Present law confers immunity from liability to physicians for certain actions with respect to DNR declarations and LaPOST.

Proposed law extends present law immunity to "providers" as defined in proposed law.

(Amends R.S. 17:500(B)(1), 500.1(A), (B), and (C)(2), 500.2(A)(2)(intro. para.) and (c), (D)(1)(b), and E(1)(a), (2)(a)-(c), and (e), 1201(A)(2) and (C)(1)(a), (b)(i)-(iii), and (v), 1202(A)(1)(b) and (2)(intro. para.) and (d), (D)(1)(b), and (E)(1)(a) and (c), (2)(a)-(c), and (3), 1206(A)(1), 1206.1(A)(1), (B), (C), and (D)(2), 1206.2(D)(1)(b), (E)(1)(a) and (c), (2)(a)-(c), and (3), R.S. 40:1151.1(intro. para.), (1), (6), (10), and (11), 1151.2(B), (C)(1), and (D)(2), 1151.3(A)(2)(b) and (3)(b) and (c) and (B), 1151.6(A)-(D), 1151.7(A) and (B), the heading of Subpart C of Part I of Subchapter A of Chapter 5-D of Title 40 of the La. Revised Statutes of 1950, 1155.1(A)(3) and (4)(a) and (B)(1) and (2), 1155.2(intro. para.), (1)-(3), and (8) and (9), 1155.3(A), (B)(5), and (D), 1155.4(A)-(C), and 1155.5(A)(1) and (2); Adds R.S. 17:1200(D) and R.S. 40:1155.3(B)(6))