

In Human Resources Committee (p. 80.)
JAN 25 1990

Place On Calendar

HOUSE FILE 2178

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 585)

Passed House, Date 2-2-90 (p. 280) Passed Senate, Date 3/13/90 (p. 1025)

Vote: Ayes 96 Nays 0 Vote: Ayes 47 Nays 0

Approved March 23, 1990

A BILL FOR

1 An Act relating to state and local substitute medical decision-
2 making boards.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2178

1 Section 1. Section 135.28, Code Supplement 1989, is
2 amended to read as follows:

3 135.28 STATE EMERGENCY SUBSTITUTE MEDICAL DECISION-MAKING
4 BOARD.

5 A state emergency substitute medical decision-making board
6 is established to formulate policy and guidelines for the
7 operations of local emergency substitute medical decision-
8 making boards, and to act if a local substitute medical
9 decision-making board does not exist. The department, with
10 the approval of the state substitute medical decision-making
11 board, shall adopt rules pursuant to chapter 17A for the
12 appointment and operation of local substitute medical
13 decision-making boards.

14 The state substitute medical decision-making board is
15 comprised of medical professionals and lay persons appointed
16 by the director and the council-on-human-services state board
17 of health according to rules adopted by the department. The
18 state substitute medical decision-making board and its members
19 are not liable, jointly or severally, for actions or omissions
20 taken or made in the official discharge of their duties,
21 except those acts or omissions constituting willful or wanton
22 misconduct.

23 Sec. 2. Section 135.29, Code Supplement 1989, is amended
24 to read as follows:

25 135.29 LOCAL EMERGENCY SUBSTITUTE MEDICAL DECISION-MAKING
26 BOARD.

27 1. Each county in this state may establish and fund a
28 local emergency substitute medical decision-making board. The
29 local substitute medical decision-making board shall be
30 comprised of medical professionals and lay persons appointed
31 pursuant to the guidelines-established-by-the-state-emergency
32 medical-board rules adopted by the department.

33 2. The Pursuant to rules adopted by the department, the
34 local substitute medical decision-making board may act as a
35 surrogate substitute decision maker for patients incapable of

1 making their own medical care decisions if no other surrogate
2 substitute decision maker is available to act. The local
3 substitute medical decision-making board may exercise
4 decision-making authority in situations where there is
5 sufficient time to review the patient's condition, and a
6 reasonably prudent person would consider a decision to be
7 medically necessary. Such medically necessary decisions shall
8 constitute good cause for subsequently filing a petition in
9 the district court for appointment of a guardian pursuant to
10 chapter 633, but the local substitute medical decision-making
11 board shall continue to act in the patient's best interests
12 until a guardian is appointed.

13 3. The local substitute medical decision-making board and
14 its members shall not be held liable, jointly or severally,
15 for any actions or omissions taken or made in the official
16 discharge of their duties, except those acts or omissions
17 constituting willful or wanton misconduct. A physician or
18 other health care provider who acts on a decision or directive
19 of the local substitute medical decision-making board or state
20 substitute medical decision-making board shall not be held
21 liable for any damages resulting from that act, unless such
22 physician's or other health care provider's actions or
23 omissions constitute negligence in the practice of the
24 profession or occupation, or willful or wanton misconduct.

25 EXPLANATION

26 This bill relates to state and local substitute medical
27 decision-making boards which make medical decisions for a
28 patient when no other decision maker is available. The names
29 of the boards are changed from emergency medical boards to
30 substitute medical decision-making boards. The Iowa
31 department of public health is granted authority to adopt
32 rules relating to the membership and operation of local
33 substitute medical decision-making boards.

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HSB 585

HUMAN RESOURCES

Now

HOUSE FILE 2170

BY (PROPOSED DEPARTMENT OF PUBLIC HEALTH BILL)

Health
Care

Fry
Hammond
Haverland
Nilsen
Plassin
Concenter
Hester

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to state and local surrogate medical decision-
2 making boards.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 135.28, Code Supplement 1989, is
2 amended to read as follows:

3 135.28 STATE EMERGENCY SURROGATE MEDICAL BOARD.

4 A state emergency surrogate medical board is established to
5 formulate policy and guidelines for the operations of local
6 emergency surrogate medical boards, and to act if a local
7 surrogate medical board does not exist. The department, with
8 the approval of the state surrogate medical board, shall adopt
9 rules pursuant to chapter 17A for the appointment and
10 operation of local surrogate medical boards.

11 The state surrogate medical board is comprised of medical
12 professionals and lay persons appointed by the director and
13 the ~~council-on-human-services~~ state board of health according
14 to rules adopted by the department. The state surrogate
15 medical board and its members are not liable, jointly or
16 severally, for actions or omissions taken or made in the
17 official discharge of their duties, except those acts or
18 omissions constituting willful or wanton misconduct.

19 Sec. 2. Section 135.29, Code Supplement 1989, is amended
20 to read as follows:

21 135.29 LOCAL EMERGENCY SURROGATE MEDICAL BOARD.

22 1. Each county in this state may establish and fund a
23 local emergency surrogate medical board. The local surrogate
24 medical board shall be comprised of medical professionals and
25 lay persons appointed pursuant to the ~~guidelines-established~~
26 ~~by-the-state-emergency-medical-board~~ rules adopted by the
27 department.

28 2. The Pursuant to rules adopted by the department, the
29 local surrogate medical board may act as a surrogate decision
30 maker for patients incapable of making their own medical care
31 decisions if no other surrogate decision maker is available to
32 act. The local surrogate medical board may exercise decision-
33 making authority in situations where there is sufficient time
34 to review the patient's condition, and a reasonably prudent
35 person would consider a decision to be medically necessary.

1 Such medically necessary decisions shall constitute good cause
2 for subsequently filing a petition in the district court for
3 appointment of a guardian pursuant to chapter 633, but the
4 local surrogate medical board shall continue to act in the
5 patient's best interests until a guardian is appointed.

6 3. The local surrogate medical board and its members shall
7 not be held liable, jointly or severally, for any actions or
8 omissions taken or made in the official discharge of their
9 duties, except those acts or omissions constituting willful or
10 wanton misconduct. A physician or other health care provider
11 who acts on a decision or directive of the local surrogate
12 medical board or state surrogate medical board shall not be
13 held liable for any damages resulting from that act, unless
14 such physician's or other health care provider's actions or
15 omissions constitute negligence in the practice of the
16 profession or occupation, or willful or wanton misconduct.

17 EXPLANATION

18 This bill relates to state and local surrogate medical
19 decision-making boards which make medical decisions for a
20 patient when no other decision maker is available. The names
21 of the boards are changed from emergency medical boards to
22 surrogate medical boards. The Iowa department of public
23 health is granted authority to adopt rules relating to the
24 membership and operation of local surrogate medical boards.

25 BACKGROUND STATEMENT

26 SUBMITTED BY THE AGENCY

27 The name "Emergency Medical Board" (state and local) is
28 confusing or misleading since the boards have nothing to do
29 with medical emergencies or emergency medical services. We
30 suggest "Surrogate Medical Board" to eliminate the confusion.
31 The provisions were originally developed to be in chapter 217
32 (DHS chapter). Consequently, members of the state board were
33 appointed by the director and council of human services.
34 Since the sections now reside in chapter 135 (public health),
35 we suggest the board members be appointed by the director and

1 the state board of health. Finally, since local boards are
2 charged with making legal decisions, local boards should
3 follow appropriate rules as opposed to guidelines in their
4 decision-making process.

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HOUSE FILE 2178

AN ACT

RELATING TO STATE AND LOCAL SUBSTITUTE MEDICAL DECISION-
MAKING BOARDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 135.28, Code Supplement 1989, is amended to read as follows:

135.28 STATE EMERGENCY SUBSTITUTE MEDICAL DECISION-MAKING BOARD.

A state emergency substitute medical decision-making board is established to formulate policy and guidelines for the operations of local emergency substitute medical decision-making boards, and to act if a local substitute medical decision-making board does not exist. The department, with the approval of the state substitute medical decision-making board, shall adopt rules pursuant to chapter 17A for the appointment and operation of local substitute medical decision-making boards.

The state substitute medical decision-making board is comprised of medical professionals and lay persons appointed by the director and the council-on-human-services state board of health according to rules adopted by the department. The state substitute medical decision-making board and its members are not liable, jointly or severally, for actions or omissions taken or made in the official discharge of their duties, except those acts or omissions constituting willful or wanton misconduct.

Sec. 2. Section 135.29, Code Supplement 1989, is amended to read as follows:

135.29 LOCAL EMERGENCY SUBSTITUTE MEDICAL DECISION-MAKING BOARD.

1. Each county in this state may establish and fund a local emergency substitute medical decision-making board. The local substitute medical decision-making board shall be comprised of medical professionals and lay persons appointed pursuant to the guidelines-established-by-the-state-emergency medical-board rules adopted by the department.

2. The Pursuant to rules adopted by the department, the local substitute medical decision-making board may act as a surrogate substitute decision maker for patients incapable of making their own medical care decisions if no other surrogate substitute decision maker is available to act. The local substitute medical decision-making board may exercise decision-making authority in situations where there is sufficient time to review the patient's condition, and a reasonably prudent person would consider a decision to be medically necessary. Such medically necessary decisions shall constitute good cause for subsequently filing a petition in the district court for appointment of a guardian pursuant to chapter 633, but the local substitute medical decision-making board shall continue to act in the patient's best interests until a guardian is appointed.

3. The local substitute medical decision-making board and its members shall not be held liable, jointly or severally, for any actions or omissions taken or made in the official discharge of their duties, except those acts or omissions constituting willful or wanton misconduct. A physician or other health care provider who acts on a decision or directive of the local substitute medical decision-making board or state substitute medical decision-making board shall not be held liable for any damages resulting from that act, unless such physician's or other health care provider's actions or

omissions constitute negligence in the practice of the profession or occupation, or willful or wanton misconduct.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2178, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved March 23, 1990

TERRY E. BRANSTAD
Governor