

**Senate File 2125 - Introduced**

SENATE FILE 2125  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO SSB 3043)

**A BILL FOR**

1 An Act relating to physician orders for scope of treatment.

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

1 Section 1. LEGISLATIVE FINDINGS. The general assembly  
2 recognizes the importance of encouraging individuals to discuss  
3 and make health care decisions before a situation necessitates  
4 an actual decision. The general assembly also recognizes  
5 that health care planning is a process, rather than a single  
6 decision, based upon the individual's values and personal  
7 health status. Advance directives provide the opportunity for  
8 an individual to enunciate and document the individual's wishes  
9 and to identify the person authorized to make decisions for the  
10 individual if the individual is unable to make decisions. The  
11 general assembly recognizes that the physician order for scope  
12 of treatment form, modeled after the national physician orders  
13 for life-sustaining treatment paradigm initiative, complements  
14 advance directives by converting individual wishes contained  
15 in advance directives, or as otherwise expressed, into medical  
16 orders that may be recognized and acted upon across medical  
17 settings, thereby enhancing the ability of medical providers to  
18 understand and honor patients' wishes. An Iowa physician order  
19 for scope of treatment form is intended for individuals who  
20 are frail and elderly or who have a chronic, critical medical  
21 condition or a terminal illness.

22 Sec. 2. NEW SECTION. 144D.1 **Physician orders for scope of**  
23 **treatment.**

24 As used in this chapter, unless the context otherwise  
25 requires:

26 1. "*Advanced registered nurse practitioner*" means an advanced  
27 registered nurse practitioner licensed pursuant to chapter 152  
28 or 152E.

29 2. "*Department*" means the department of public health.

30 3. "*Emergency medical care provider*" means emergency medical  
31 care provider as defined in section 147A.1.

32 4. "*Health care facility*" means health care facility as  
33 defined in section 135C.1, a hospice program as defined in  
34 section 135J.1, an elder group home as defined in section  
35 231B.1, and an assisted living program as defined in section

1 231C.2.

2 5. "*Health care provider*" means an individual, including  
3 an emergency medical care provider and an individual providing  
4 home and community-based services, and including a home  
5 health agency, licensed, certified, or otherwise authorized or  
6 permitted by the law of this state to administer health care  
7 in the ordinary course of business or in the practice of a  
8 profession.

9 6. "*Home health agency*" means home health agency as defined  
10 in 42 C.F.R. pt. 484.

11 7. "*Hospital*" means hospital as defined in section 135B.1.

12 8. "*Legal representative*" means an individual authorized to  
13 execute a POST form on behalf of a patient who is not competent  
14 to do so, in the order of priority set out in section 144A.7,  
15 subsection 1, and guided by the express or implied intentions  
16 of the patient or, if such intentions are unknown, by the  
17 patient's best interests given the patient's overall medical  
18 condition and prognosis.

19 9. "*Patient*" means an individual who is frail and elderly  
20 or who has a chronic, critical medical condition or a terminal  
21 illness and for which a physician order for scope of treatment  
22 is consistent with the individual's goals of care.

23 10. "*Physician*" means a person licensed to practice medicine  
24 and surgery or osteopathic medicine and surgery in this state.

25 11. "*Physician assistant*" means a person licensed as a  
26 physician assistant under chapter 148C.

27 12. "*Physician orders for scope of treatment form*" or "*POST*  
28 *form*" means a document containing medical orders which may  
29 be relied upon across medical settings that consolidates  
30 and summarizes a patient's preferences for life-sustaining  
31 treatments and interventions and acts as a complement to and  
32 does not supersede any valid advance directive.

33 **Sec. 3. NEW SECTION. 144D.2 Physician orders for scope of**  
34 **treatment (POST) form.**

35 1. The POST form shall be a uniform form based upon the

1 national physician orders for life-sustaining treatment  
2 paradigm form. The form shall have all of the following  
3 characteristics:

4 *a.* The form shall include the patient's name and date of  
5 birth.

6 *b.* The form shall be signed and dated by the patient or the  
7 patient's legal representative.

8 *c.* The form shall be signed and dated by the patient's  
9 physician, advanced registered nurse practitioner, or physician  
10 assistant.

11 *d.* If preparation of the form was facilitated by an  
12 individual other than the patient's physician, advanced  
13 registered nurse practitioner, or physician assistant, the  
14 facilitator shall also sign and date the form.

15 *e.* The form shall include the patient's wishes regarding the  
16 care of the patient, including but not limited to all of the  
17 following:

18 (1) The administration of cardiopulmonary resuscitation.

19 (2) The level of medical interventions in the event of a  
20 medical emergency.

21 (3) The use of medically administered nutrition by tube.

22 (4) The rationale for the orders.

23 *f.* The form shall be easily distinguishable to facilitate  
24 recognition by health care providers, hospitals, and health  
25 care facilities.

26 *g.* An incomplete section on the form shall imply the  
27 patient's wishes for full treatment for the type of treatment  
28 addressed in that section.

29 2. The department shall prescribe the uniform POST form  
30 and shall post the form on the department's website for public  
31 availability.

32 **Sec. 4. NEW SECTION. 144D.3 Compliance with POST form.**

33 1. A POST form executed in this state or another state  
34 or jurisdiction in compliance with the law of that state or  
35 jurisdiction shall be deemed valid and enforceable in this

1 state to the extent the form is consistent with the laws of  
2 this state, and may be accepted by a health care provider,  
3 hospital, or health care facility.

4 2. A health care provider, hospital, or health care facility  
5 may comply with an executed POST form, notwithstanding that the  
6 physician, advanced registered nurse practitioner, or physician  
7 assistant who signed the POST form does not have admitting  
8 privileges at the hospital or health care facility providing  
9 health care or treatment.

10 3. A POST form may be revoked at any time and in any manner  
11 by which the patient or a patient's legal representative is  
12 able to communicate the patient's intent to revoke, without  
13 regard to the patient's mental or physical condition. A  
14 revocation is only effective as to the health care provider,  
15 hospital, or health care facility upon communication to the  
16 health care provider, hospital, or health care facility by the  
17 patient, the patient's legal representative, or by another to  
18 whom the revocation was communicated.

19 4. In the absence of actual notice of the revocation  
20 of a POST form, a health care provider, hospital, health  
21 care facility, or any other person who complies with a POST  
22 form shall not be subject to civil or criminal liability or  
23 professional disciplinary action for actions taken under  
24 this chapter which are in accordance with reasonable medical  
25 standards. A health care provider, hospital, health care  
26 facility, or other person against whom criminal or civil  
27 liability is asserted because of conduct in compliance with  
28 this chapter may interpose the restriction on liability in this  
29 paragraph as an absolute defense.

30 5. A health care provider, hospital, or health care facility  
31 that is unwilling to comply with an executed POST form based on  
32 policy, religious beliefs, or moral convictions shall take all  
33 reasonable steps to transfer the patient to another health care  
34 provider, hospital, or health care facility.

35 Sec. 5. NEW SECTION. 144D.4 General provisions.

1 1. If an individual is a qualified patient as defined in  
2 section 144A.2, the individual's declaration executed under  
3 chapter 144A shall control health care decision making for the  
4 individual in accordance with chapter 144A. If an individual  
5 has not executed a declaration pursuant to chapter 144A, health  
6 care decision making relating to life-sustaining procedures for  
7 the individual shall be governed by section 144A.7. A POST  
8 form shall not supersede a declaration executed pursuant to  
9 chapter 144A.

10 2. If an individual has executed a durable power of attorney  
11 for health care pursuant to chapter 144B, the individual's  
12 durable power of attorney for health care shall control health  
13 care decision making for the individual in accordance with  
14 chapter 144B. A POST form shall not supersede a durable power  
15 of attorney for health care executed pursuant to chapter 144B.

16 3. If the individual's physician has issued an  
17 out-of-hospital do-not-resuscitate order pursuant to section  
18 144A.7A, the POST form shall not supersede the out-of-hospital  
19 do-not-resuscitate order.

20 4. Death resulting from the withholding or withdrawal of  
21 life-sustaining procedures pursuant to an executed POST form  
22 and in accordance with this chapter does not, for any purpose,  
23 constitute a suicide, homicide, or dependent adult abuse.

24 5. The executing of a POST form does not affect in any  
25 manner the sale, procurement, or issuance of any policy of  
26 life insurance, nor shall it be deemed to modify the terms  
27 of an existing policy of life insurance. A policy of life  
28 insurance is not legally impaired or invalidated in any manner  
29 by the withholding or withdrawal of life-sustaining procedures  
30 pursuant to this chapter notwithstanding any term of the policy  
31 to the contrary.

32 6. A health care provider, hospital, health care facility,  
33 health care service plan, insurer issuing disability insurance,  
34 self-insured employee welfare benefit plan, or nonprofit  
35 hospital plan shall not require any person to execute a POST

1 form as a condition of being insured for, or receiving, health  
2 care services.

3 7. This chapter does not create a presumption concerning  
4 the intention of an individual who has not executed a POST  
5 form with respect to the use, withholding, or withdrawal  
6 of life-sustaining procedures in the event of a terminal  
7 condition.

8 8. This chapter shall not be interpreted to affect the  
9 right of an individual to make decisions regarding use of  
10 life-sustaining procedures as long as the individual is able to  
11 do so, nor to impair or supersede any right or responsibility  
12 that any person has to effect the withholding or withdrawal  
13 of medical care in any lawful manner. In that respect, the  
14 provisions of this chapter are cumulative.

15 9. This chapter shall not be construed to condone,  
16 authorize, or approve mercy killing or euthanasia, or to permit  
17 any affirmative or deliberate act or omission to end life other  
18 than to permit the natural process of dying.

19 EXPLANATION

20 This bill provides for the use of physician orders for scope  
21 of treatment (POST).

22 The bill provides legislative findings that provide that  
23 the general assembly recognizes the importance of encouraging  
24 individuals to discuss and make health care decisions before an  
25 actual decision is necessary; that health care planning is a  
26 process based upon the individual's values and personal health  
27 status; and that advance directives provide the opportunity  
28 for an individual to enunciate and document their wishes and  
29 to identify the person authorized to make decisions for the  
30 individual. The general assembly also recognizes that the  
31 POST form, modeled after the national physician orders for  
32 life-sustaining treatment paradigm initiative, complements  
33 advance directives by converting individual wishes contained  
34 in advance directives, or as otherwise expressed, into medical  
35 orders that may be recognized and acted upon across medical

1 settings, thereby enhancing the ability of medical providers  
2 to understand and honor patients' wishes. The POST form is  
3 intended for individuals who are frail and elderly or who have  
4 a chronic, critical medical condition or a terminal illness.

5 The bill provides definitions used in Code chapter 144D,  
6 including the physician orders for scope of treatment (POST)  
7 form, which means a document containing medical orders which  
8 may be relied upon across medical settings that consolidates  
9 and summarizes an individual's preferences for life-sustaining  
10 treatments and interventions and acts as a complement to but  
11 does not supersede any valid advance directive.

12 The bill specifies the content of the POST form and that the  
13 department of public health is to prescribe the uniform POST  
14 form and post the form on the department's website for public  
15 availability.

16 The bill specifies compliance requirements for the POST  
17 form. A POST form executed in this state or another state  
18 or jurisdiction in compliance with the law of the applicable  
19 state or jurisdiction shall be deemed valid and enforceable in  
20 this state to the extent the form is consistent with the laws  
21 of this state, and may be accepted by a health care provider,  
22 hospital, or health care facility. A health care provider,  
23 hospital, or health care facility may comply with an executed  
24 POST form, even if the physician, advanced registered nurse  
25 practitioner, or physician assistant who signed the POST form  
26 does not have admitting privileges at the hospital or health  
27 care facility providing health care or treatment. The bill  
28 provides an absolute defense to civil or criminal liability or  
29 professional disciplinary action for a health care provider,  
30 hospital, health care facility, or any other person who  
31 complies with a POST form if the actions are in accordance with  
32 reasonable medical standards. The bill requires a health care  
33 provider, hospital, or health care facility that is unwilling  
34 to comply with an executed POST form due to policy, religious  
35 beliefs, or moral convictions to take all reasonable steps to



1 transfer the patient to another health care provider, hospital,  
2 or health care facility.

3 The bill provides for the relation of an executed POST  
4 form to a declaration under the life-sustaining procedures  
5 Act, a durable power of attorney for health care, and an  
6 out-of-hospital do-not-resuscitate order. In all cases,  
7 the declaration, the durable power of attorney, and the  
8 out-of-hospital do-not-resuscitate order control health care  
9 decision making and the POST form does not supersede them.

10 The bill provides that death resulting from the withholding  
11 or withdrawal of life-sustaining procedures pursuant to an  
12 executed POST form and in accordance with the bill does not  
13 constitute a suicide, homicide, or dependent adult abuse and  
14 that executing a POST form does not affect in any manner  
15 the sale, procurement, or issuance of any policy of life  
16 insurance; modify the terms of an existing policy of life  
17 insurance; or legally impair or invalidate the policy. The  
18 bill prohibits the execution of a POST form as a condition for  
19 being insured or receiving health care services and provides  
20 that not executing a POST form does not create a presumption  
21 concerning the intention of an individual with respect to the  
22 use, withholding, or withdrawal of life-sustaining procedures  
23 in the event of a terminal condition.

24 The bill is not to be interpreted to affect the right of an  
25 individual to make decisions regarding use of life-sustaining  
26 procedures as long as the individual is able to do so, nor to  
27 impair or supersede any right or responsibility that any person  
28 has to effect the withholding or withdrawal of medical care in  
29 any lawful manner. The bill is not to be construed to condone,  
30 authorize, or approve mercy killing or euthanasia, or to permit  
31 any affirmative or deliberate act or omission to end life other  
32 than to permit the natural process of dying.

33 The general assembly in 2008 Iowa Acts, chapter 1188,  
34 section 36, established a two-year pilot project in Linn county  
35 and in 2010 Iowa Acts, chapter 1192, section 58, expanded

1 the pilot project to Jones county and extended the duration  
2 until June 30, 2012, to pilot the use of the POST form. The  
3 legislation also directed the department to convene an advisory  
4 council for the pilot project and directed the advisory council  
5 to report its findings and recommendations to the general  
6 assembly by January 1, 2012. The advisory council recommended  
7 expanding the adoption of the POST form statewide.