

Senate Study Bill 3043 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON RAGAN)

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
10 the individual if the individual is unable to make decisions.
11 The general assembly recognizes that the physician order for
12 scope of treatment form, modeled after the national physician
13 orders for life-sustaining treatment paradigm initiative,
14 complements advance directives by converting individual wishes
15 contained in advance directives into medical orders that are
16 actionable across medical settings, thereby enhancing the
17 ability of medical providers to understand and honor patients'
18 wishes. An Iowa physician order for scope of treatment form is
19 intended for individuals who are frail and elderly or who have
20 a chronic, critical medical condition or a terminal illness.

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

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

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

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

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

31 4. *"Health care facility"* means health care facility as
32 defined in section 135C.1, a hospice program as defined in
33 section 135J.1, an elder group home as defined in section
34 231B.1, and an assisted living program as defined in section
35 231C.2.

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

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

8 7. "*Physician*" means a person licensed to practice medicine
9 and surgery or osteopathic medicine and surgery in this state.

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

12 9. "*Physician orders for scope of treatment form*" or "*POST*
13 *form*" means a document containing medical orders actionable
14 across medical settings that consolidates and summarizes
15 an individual's preferences for life-sustaining treatments
16 and interventions and acts as a complement to and does not
17 supersede any valid advance directive.

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

20 1. The POST form shall be a uniform form based upon the
21 national physician orders for life-sustaining treatment
22 paradigm form. The form shall have all of the following
23 characteristics:

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

26 *b.* The form shall be signed by the patient or the patient's
27 legal representative.

28 *c.* The form shall be signed by the patient's physician,
29 advanced registered nurse practitioner, or physician assistant.

30 *d.* If preparation of the form was facilitated by another
31 individual, the facilitator shall also sign the form.

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

35 (1) The administration of cardiopulmonary resuscitation.

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

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

4 (4) The rationale for the orders.

5 *f.* The form shall be easily distinguishable to facilitate
6 recognition by health care providers, hospitals, and health
7 care facilities.

8 *g.* An incomplete section on the form shall imply the
9 patient's wishes for full treatment for the type of treatment
10 addressed in that section.

11 2. The department shall post the form on the department's
12 website for public availability.

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

14 1. A POST form executed in this state or another state
15 or jurisdiction in compliance with the law of that state or
16 jurisdiction shall be deemed valid and enforceable in this
17 state to the extent the form is consistent with the laws of
18 this state, and may be accepted by a health care provider,
19 hospital, or health care facility.

20 2. A health care provider, hospital, or health care facility
21 may comply with an executed POST form, notwithstanding that the
22 physician, advanced registered nurse practitioner, or physician
23 assistant who signed the POST form does not have admitting
24 privileges at the hospital or health care facility providing
25 health care or treatment.

26 3. In the absence of actual notice of the revocation of
27 a POST form, a health care provider, hospital, health care
28 facility, or any other person who complies with a POST form
29 shall not be subject to civil or criminal liability for
30 actions taken under this chapter which are in accordance
31 with reasonable medical standards. A health care provider,
32 hospital, health care facility, or other person against whom
33 criminal or civil liability is asserted because of conduct in
34 compliance with this chapter may interpose the restriction on
35 liability in this paragraph as an absolute defense.

1 4. A health care provider, hospital, or health care facility
2 that is unwilling to comply with an executed POST form shall
3 take all reasonable steps to transfer the patient to another
4 health care provider, hospital, or health care facility.

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

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

15 2. If an individual has executed a durable power of attorney
16 for health care pursuant to chapter 144B, the individual's
17 durable power of attorney for health care shall control health
18 care decision making for the individual in accordance with
19 chapter 144B. A POST form shall not supersede a durable power
20 of attorney for health care executed pursuant to chapter 144B.

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

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

33 5. A health care provider, hospital, health care facility,
34 health care service plan, insurer issuing disability insurance,
35 self-insured employee welfare benefit plan, or nonprofit

1 hospital plan shall not require any person to execute a POST
2 form as a condition of being insured for, or receiving, health
3 care services.

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

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

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

20 EXPLANATION

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

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

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

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

13 The bill specifies the content of the POST form and that
14 the department of public health is to post the form on the
15 department's website for public 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
29 for a health care provider, hospital, health care facility, or
30 any other person who complies with a POST form if the actions
31 are in accordance with reasonable medical standards. The bill
32 requires a health care provider, hospital, or health care
33 facility that is unwilling to comply with an executed POST form
34 to take all reasonable steps to transfer the patient to another
35 health care provider, hospital, or health care facility.

1 The bill provides for the relation of an executed POST form
2 to a declaration under the life-sustaining procedures Act and a
3 durable power of attorney for health care. In both cases, the
4 declaration and the durable power of attorney control health
5 care decision making and the POST form does not supersede them.

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

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

29 The general assembly in 2008 Iowa Acts, chapter 1188,
30 section 36, established a two-year pilot project in Linn county
31 and in 2010 Iowa Acts, chapter 1192, section 58, expanded
32 the pilot project to Jones county and extended the duration
33 until June 30, 2012, to pilot the use of the POST form. The
34 legislation also directed the department to convene an advisory
35 council for the pilot project and directed the advisory council

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1 to report its findings and recommendations to the general
2 assembly by January 1, 2012. The advisory council recommended
3 expanding the adoption of the POST form statewide.