

Senate Study Bill 3105 - Introduced

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

A BILL FOR

1 An Act relating to a patient's designation and authorization of
2 a person to whom the patient's health care information may
3 be disclosed.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 144E.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Health care*" means any care, treatment, service, or
5 procedure to maintain, diagnose, or treat a patient's physical
6 or mental condition.

7 2. "*Health care provider*" means a person, health care
8 facility, organization, or corporation licensed, certified, or
9 otherwise authorized or permitted by the state to administer
10 health care other than a nursing facility licensed under
11 chapter 135C or a dentist or dental hygienist licensed under
12 chapter 153.

13 3. "*Patient*" means an individual sixteen years of age or
14 older who presents or is presented to a health care provider
15 for health care.

16 4. "*Treatment*" means the broad range of emergency,
17 outpatient, intermediate, and inpatient services and care that
18 may be extended to a patient to diagnose and treat a human
19 disease, ailment, defect, abnormality, or complaint, whether
20 of physical or mental origin.

21 Sec. 2. NEW SECTION. 144E.2 Authorization of disclosure of
22 health care information to designated person.

23 1. A health care provider or the health care provider's
24 agent shall offer to a patient, in the patient's written
25 information form or electronic health record, the opportunity
26 for the patient to designate and authorize a family member or
27 other individual as a person with whom the health care provider
28 may discuss the patient's health care information.

29 2. The authorization provided for in subsection 1 shall meet
30 all of the following conditions:

31 a. Satisfy the requirements relating to disclosure of
32 certain health information with a patient's consent specified
33 in Code of Federal Regulations, Title 42, and the federal
34 Health Insurance Portability and Accountability Act of 1996,
35 Pub. L. No. 104-191.

1 *b.* Present the question in bold print, or by electronic
2 means: `Do you want to designate a family member or other
3 individual with whom the health care provider may discuss your
4 health care information? If yes, with whom?`

5 *c.* Specify that the patient may revoke or modify an
6 authorization with regard to any family member or other
7 individual designated by the patient in the authorization and
8 that the revocation or modification must be in writing.

9 3. A health care provider may disclose a patient's health
10 care information pursuant to an authorization under this
11 section unless the provider has actual knowledge that the
12 authorization has been revoked or modified.

13 4. A health care provider who in good faith discloses
14 a patient's health care information in accordance with an
15 authorization pursuant to this section is not subject to civil
16 liability, criminal liability, or disciplinary action because
17 of the disclosure.

18 5. This section shall not be construed to do any of the
19 following:

20 *a.* Require a health care provider to disclose a patient's
21 health care information if the health care provider is
22 otherwise authorized to withhold the health care information
23 or limit its disclosure.

24 *b.* Prevent a health care provider from disclosing a
25 patient's health care information without written authorization
26 from the patient if the disclosure is otherwise permitted by
27 law without the patient's specific authorization or permission.

28 *c.* Prohibit a health care provider from receiving health
29 care information from family members and other individuals and
30 using such health care information if relevant to the safe and
31 effective treatment of the patient.

32 *d.* Conflict with a durable power of attorney for health care
33 executed by the patient as provided for in chapter 144B.

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EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill provides a process for a health care provider or
3 the health care provider's agent to provide the opportunity for
4 a patient to designate in the patient's written information
5 form or electronic health record, a family member or other
6 individual the patient authorizes as a person with whom the
7 health care provider may discuss the patient's health care
8 information. The bill requires that the authorization meet
9 federal requirements for the sharing of a patient's health
10 information; present the question in bold print, or by
11 electronic means: `Do you want to designate a family member
12 or other individual with whom the health care provider may
13 discuss your health care information? If yes, with whom?'; and
14 specify that the patient may revoke or modify an authorization
15 with regard to any family member or other individual designated
16 by the patient in the authorization and that the revocation or
17 modification must be in writing. Under the bill, a health care
18 provider may disclose health care information pursuant to an
19 authorization unless the provider has actual knowledge that
20 the authorization has been revoked or modified. A health care
21 provider who in good faith discloses information in accordance
22 with an authorization is not subject to civil liability,
23 criminal liability, or disciplinary action because of the
24 disclosure.

25 The bill provides that the bill is not to be construed
26 to require a health care provider to disclose health care
27 information if the health care provider is otherwise authorized
28 to withhold or limit the disclosure of such information;
29 prevent a health care provider from disclosing a patient's
30 health care information without written authorization from
31 the patient if the disclosure is otherwise permitted by law
32 without the patient's specific authorization or permission;
33 prohibit a provider from receiving health care information from
34 family members or other individuals and using such health care
35 information if such health care information is relevant to the

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1 safe and effective provision of health care to the patient; or
2 conflict with a patient's durable power of attorney for health
3 care.

4 The bill defines "health care", "health care provider",
5 "patient", and "treatment", but provides that the bill does not
6 apply to a licensed nursing facility or to a licensed dentist
7 or dental hygienist.