

**CHAPTER 1026****SUBSTITUTE MEDICAL DECISION-MAKING BOARDS***H.F. 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.

Approved March 23, 1990