

MINUTES  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, March 21, 2017

**TIME:** 8:30 A.M.

**PLACE:** Room EW20

**MEMBERS:** Chairman Wood, Vice Chairman Packer, Representatives Hixon, Perry, Vander Woude, Redman, Gibbs, Blanksma, Hanks, Kingsley, Zollinger, Chew, Rubel

**ABSENT/  
EXCUSED:** None

**GUESTS:** Ginger Wardhaugh and Clarke Hamon, Self; Judy Cross, The Interfaith Alliance of Idaho; Gail Vasquez, St. Lukes; Ruth Goldthwaite and Corey Surber, Saint Alphonsus; Kris Ellis, ID. Health Care Assoc.

**Chairman Wood** called the meeting to order at 8:31 a.m.

**MOTION:** **Rep. Redman** made a motion to approve the minutes of the March 20, 2017, meeting. **Motion carried by voice vote.**

**S 1090aa:** **Bob Aldridge**, Quality of Life Coalition, presented **S 1090aa**. This Legislation pertains to the fundamental human right to make our own medical decisions. Current practice often interprets existing statutes to deny the ability of a person diagnosed with developmental disabilities (DD) to make medical decisions for themselves. DD includes a wide range of disabilities and severity. Even with limited physical conditions, a person may have unaffected mental capabilities. The capacity tests for making medical decisions already exist in Idaho Code.

A respondent (an individual with DD and a guardian) has federal law and Idaho Administrative Code protections which do not exist in current Idaho DD statutes. The statute regarding advanced directives is out of date, especially regarding directive revocation, suspension, and presumed resuscitation consent.

**S 1090aa** clarifies statute to include persons with DD, who are not respondents, as persons who may consent to their own care. Revocation of advance directives has been updated to allow for any action showing the maker's intent to revoke the advance directive.

Other changes align with federal law and Idaho Administrative Code. New language clarifies the conditions and guidelines for a guardian's withdrawal or withholding of treatment. Appropriate nutrition or hydration is excluded from the treatment withdrawal. A guardian cannot refuse or withhold consent for medically necessary treatment when it would seriously endanger the respondent's life, health, or well-being. It also stipulates the health care provider or caregiver must provide, even without a valid guardian consent, the medically necessary treatment as authorized in the Medicaid Consent and Natural Death Act.

Revocation and suspension of an advance directive has been updated to include occasions when the directive no longer reflects the patient's wishes. There is also provision for the provider's use of an otherwise valid advance directive when there is no knowledge of a revocation or suspension.

Updates to cardiopulmonary resuscitation (CPR) consent presumption reflect current practice. Additional grammatical and terminology updates are made.

Answering questions, **Mr. Aldridge** said a surrogate decision maker (SDM) is someone appointed by the individual or court to make decisions on the persons behalf. If temporarily or permanently incapacitated, an SDM would be used. The SDM can be named in the healthcare durable power of attorney.

If the person with DD has no ability to communicate medical decisions, the guardian must go by their latest authentic expression. Nutrition and hydration are always to be provided, in alignment with the Baby Doe regulations. Guardians are required to complete a variety of training, including supportive decision making in extreme circumstances.

**Ginger Wardhaugh**, Boise Resident, testified **in support of S 1090aa**. She described her brother, Curtis, his pneumonia diagnosis, emergency room visit, acute respiratory distress syndrome, and care restrictions based on the existing statute. He had to endure medical interventions the family would not have chosen and he did not want. Their efforts to change his care plan were thwarted by the statute. Ms. Wardhaugh was finally able to get amended orders of guardianship to remove Curtis from life support, allowing him to die with his family and his dignity. The changes in **S 1090aa** provide that dignity.

For the record, no one else indicated their desire to testify

**MOTION:** **Rep. Redman** made a motion to send **S 1090aa** to the floor with a **DO PASS** Recommendation. **Motion carried by voice vote. Rep. Rubel** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 9:21 a.m.

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Representative Wood  
Chair

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Irene Moore  
Secretary