

MINUTES
HOUSE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, March 03, 2020

TIME: 9:00 A.M.

PLACE: Room EW20

MEMBERS: Chairman Wood, Vice Chairman Wagoner, Representatives Vander Woude, Gibbs, Blanksma, Kingsley, Zollinger, Christensen, Lickley, Remington, Chew, Rubel, Davis

**ABSENT/
EXCUSED:** None

GUESTS: Blaine Konzatti, Family Policy Alliance; Bob Aldridge, IHCCA, TEPI; Christine Gibbons, St. Alphonsus; Jackie Wakefield, Right to Life Idaho; Christian Welp, Catholic Diocese of Boise; Toni Lawson, Id. Hospital Assoc.; Sandi Enzminger, Self

Chairman Wood called the meeting to order at 9:00 a.m.

RS 27906: **Rep. Britt Raybould**, District 34, presented **RS 27906**, a technical correction to the previous bill to aspects of involuntary commitments and reimbursement rate stipulated also county cost share is the state's portion of the share, not the overall medicaid expense costs in total and county portion moved from 23% to 30%.

MOTION: **Rep. Vander Woude** made a motion to introduce **RS 27906**. **Motion carried by voice vote.**

H 578: **Rep. John Vander Woude**, District 22, presented **H 578**, Simon's Law. This legislation replaces **H 519**. The changes allow the parent to put a do not resuscitate (DNR) in place immediately, instead of waiting for 48 hours. It also indicates the patient is to be discharged from the hospital, with the assumption they will go home. The fifteen-day transfer time frame includes execution of a transfer and an option for the physician.

Blaine Konzatti, Director, Family Policy Alliance of Idaho, testified **in support of H 578**, which closes the existing legal gap regarding DNRs for children, protecting them. Life deserves to be protected, no matter the disabilities or circumstances.

Bob Aldridge, Attorney, Idaho Health Continuum Care Association, Trust and Estate Professionals of Idaho, testified **in opposition to H 578**. He shared his concern regarding the need for legislation, the low costs represented in the fiscal note, conflict with existing guardian and parent statutes, placement of the notice not in policy and procedure, and the ability for parents to understand the requirements. He requested the bill be held in committee to address issues during the interim.

Christine Gibbons, Registered Nurse, Palliative Care Program Coordinator, St. Alphonsus Health System, testified **in opposition to H 578**. In response to previous questions regarding the legal consequences of a DNR placement without informed consent, the Board of Medicine was contacted.

Ms. Gibbons read the response from **Anne Lawler**, Executive Director. (See attachment 1) In her letter, Ms. Lawler wrote failure to provide medical care that meets the community standard of care is a violation of both the Medical Practice Act and Rules, including consent for medical treatments performed or withheld. This would also mean possible discipline by the Board of Medicine. Ms. Gibbons stated the language in this legislation needs to be clarified and requested the bill be held in committee.

Jackie Wakefield, Right to Life for Idaho, appeared on behalf of **Kerry Uhlenkott**, Legislative Coordinator, **in support of H 578**. Simon's Law is significant pro-life legislation recognizing rationed care against children with life limiting diagnoses is a real issue. A frightening number of children with chromosomal disorders are denied life saving medical treatment. Responding to a question, Ms. Wakefield said the case information is unavailable and she personally does not know of any cases.

Christian Welp, Catholic Church of Idaho, testified **in support of H 578**. This legislation closes a legal gap regarding the possibility of a physician placing a DNR order on a child without parental consent by requiring notification.

Blaine Conzatti, Director, Family Policy Alliance of Idaho, was invited to answer questions. The medical community is unsure if consent is required in statute due to its use of the word "may." The mere change of "may" to "shall" would not address issues for families transferring their child to another facility.

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

In closing remarks, **Rep. Vander Woude** said because of its cost of treatment complexity, the budget writers developed the fiscal note numbers. This legislation provides notification and a procedure to help a parent understand the next steps.

Bob Aldridge, Attorney, Idaho Health Continuum Care Association, Trust and Estate Professionals of Idaho, was asked to answer a question. Existing laws address the rights of both parents and custodial care. Other parental rights, even without custodial care, allow inclusion in decisions. This language states "a" parent or guardian without clarifying the type of notice, which parent is notified, and what happens if there is a disagreement. This bill would create situations when one parent would not get notified at all, which could lead to a lawsuit.

MOTION: **Rep. Christensen** made a motion to send **H 578** to the floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION: **Rep. Rubel** made a substitute motion to **HOLD H 578** in committee.

Rep. Rubel shared with the committee information regarding several existing statutes for this type of situation, including a list of the persons who can give consent.

ROLL CALL VOTE: Because the voice vote was unclear, **Chairman Wood** requested a roll call vote on the substitute motion. **Motion failed by a vote of 5 AYE and 8 NAY. Voting in favor of the motion: Reps. Wood, Gibbs, Chew, Rubel, Davis. Voting in opposition to the motion: Reps. Wagoner, Vander Woude, Blanksma, Kingsley, Zollinger, Christensen, Lickley, Remington.**

VOTE ON ORIGINAL MOTION: **Chairman Wood** called for a vote on the original motion to send **H 578** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Wood, Davis, Rubel, and Chew** requested they be recorded as voting **NAY. Rep. Vander Woude** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 9:49 a.m.

Representative Wood
Chair

Irene Moore
Secretary