

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 223

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE MEDICAL CONSENT AND NATURAL DEATH ACT; AMENDING SECTION  
2 39-4501, IDAHO CODE, TO REVISE PROVISIONS REGARDING PURPOSES AND AP-  
3 PPLICATION; AMENDING SECTION 39-4502, IDAHO CODE, TO DEFINE TERMS AND  
4 TO REVISE DEFINITIONS; AMENDING SECTION 39-4503, IDAHO CODE, TO RE-  
5 VISE PROVISIONS REGARDING CONSENT TO CARE; AMENDING SECTION 39-4504,  
6 IDAHO CODE, TO REVISE PROVISIONS REGARDING CONSENT TO CARE ON SOMEONE  
7 ELSE'S BEHALF; AMENDING SECTION 39-4505, IDAHO CODE, TO REVISE PROVI-  
8 SIONS REGARDING BLOOD TESTING; AMENDING SECTION 39-4506, IDAHO CODE, TO  
9 REVISE PROVISIONS REGARDING SUFFICIENCY OF CONSENT; AMENDING SECTION  
10 39-4507, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4508,  
11 IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4509, IDAHO  
12 CODE, TO REVISE TERMINOLOGY; REPEALING SECTION 39-4510, IDAHO CODE,  
13 RELATING TO LIVING WILLS AND DURABLE POWERS OF ATTORNEY FOR HEALTH CARE;  
14 AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SEC-  
15 TION 39-4510, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING ADVANCE  
16 CARE PLANNING DOCUMENTS; AMENDING SECTION 39-4511A, IDAHO CODE, TO RE-  
17 VISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
18 39-4511B, IDAHO CODE, TO REVISE PROVISIONS REGARDING SUSPENSION OF AN  
19 ADVANCE CARE PLANNING DOCUMENT; AMENDING SECTION 39-4512, IDAHO CODE,  
20 TO REVISE PROVISIONS REGARDING EXECUTION OF AN ADVANCE CARE PLANNING  
21 DOCUMENT; AMENDING SECTION 39-4512A, IDAHO CODE, TO REVISE PROVISIONS  
22 REGARDING A CERTAIN ORDER; AMENDING SECTION 39-4512B, IDAHO CODE, TO  
23 REVISE PROVISIONS REGARDING ADHERENCE TO POST PROTOCOLS; AMENDING SEC-  
24 TION 39-4512C, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION  
25 39-4513, IDAHO CODE, TO REVISE PROVISIONS REGARDING IMMUNITY; AMENDING  
26 SECTION 39-4514, IDAHO CODE, TO REVISE GENERAL PROVISIONS; AMENDING  
27 SECTION 39-4515, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE HEALTH  
28 CARE DIRECTIVE REGISTRY; AMENDING SECTION 39-4516, IDAHO CODE, TO  
29 REVISE TERMINOLOGY; AMENDING SECTION 74-106, IDAHO CODE, TO REVISE PRO-  
30 VISIONS REGARDING THE HEALTH CARE DIRECTIVE REGISTRY; AND DECLARING AN  
31 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
32

33 Be It Enacted by the Legislature of the State of Idaho:

34 SECTION 1. That Section 39-4501, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 39-4501. PURPOSES -- APPLICATION. (1) The primary purposes of this  
37 chapter are:

38 (a) To provide and codify Idaho law concerning consent for the fur-  
39 nishing of hospital, medical, dental, surgical, and other health care,  
40 ~~treatment or procedures,~~ services and concerning what constitutes  
41 an informed consent for such health care, ~~treatment or procedures~~  
42 services; and

1 (b) To provide certainty and clarity in the law of medical consent in  
 2 the furtherance of high standards of health care services and ~~its~~ their  
 3 ready availability in proper cases.

4 (2) Nothing in this chapter shall be deemed to amend or repeal the pro-  
 5 visions of chapter 3 or chapter 4, title 66, Idaho Code, as those provisions  
 6 pertain to hospitalization or commitment of people with mental illness or  
 7 developmental disability or the powers of guardians of developmentally  
 8 disabled persons, nor the provisions of chapter 6, title 18, Idaho Code,  
 9 pertaining to the provision of examinations, prescriptions, devices, and  
 10 informational materials regarding prevention of pregnancy or pertaining to  
 11 therapeutic abortions and consent to the performance thereof.

12 (3) Nothing in this chapter shall be construed to permit or require the  
 13 provision of health care services for a patient in contravention of the pa-  
 14 tient's stated or implied objection thereto upon religious grounds nor shall  
 15 anything in this chapter be construed to require the granting of permission  
 16 for or on behalf of any patient who is not able to act for himself by his par-  
 17 ent, spouse, or guardian in violation of the religious beliefs of the patient  
 18 or the patient's parent or spouse.

19 SECTION 2. That Section 39-4502, Idaho Code, be, and the same is hereby  
 20 amended to read as follows:

21 39-4502. DEFINITIONS. As used in this chapter:

22 (1) "Advance care planning document," "advance directive," "direc-  
 23 tive," or "health care directive" means a document that:

24 (a) Substantially meets the requirements of section 39-4510(1), Idaho  
 25 Code;

26 (b) Is a POST form; or

27 (c) Is another document that represents a competent person's authentic  
 28 expression of such person's wishes concerning health care services.

29 ~~(1) (2)~~ "Advanced practice professional nurse" (APPN) registered  
 30 nurse" means a professional nurse licensed in this state who has gained addi-  
 31 tional specialized knowledge, skills, and experience through a nationally  
 32 accredited program of study as defined by section 54-1402, Idaho Code, and  
 33 is authorized to perform advanced nursing practice, which may include direct  
 34 client care such as assessing, diagnosing, planning, and prescribing phar-  
 35 macologic and nonpharmacologic therapeutic and corrective measures, health  
 36 promotion, and preventive care as defined by rules of the board of nursing.  
 37 The advanced practice professional registered nurse collaborates with other  
 38 health professionals in providing health care services.

39 ~~(2) (3)~~ "Artificial life-sustaining procedure treatment" means any  
 40 medical procedure or intervention that utilizes mechanical means to sustain  
 41 or supplant a vital function which, when applied to a qualified patient,  
 42 would serve only to artificially prolong life. "Artificial life-sustaining  
 43 procedure treatment" does not include the administration of pain management  
 44 medication or the performance of any medical procedure deemed necessary to  
 45 provide comfort care or to alleviate pain.

46 ~~(3) (4)~~ "Artificial nutrition and hydration" means supplying food and  
 47 water through a conduit, such as a tube or intravenous line, where the recip-  
 48 ient is not required to chew or swallow voluntarily, but does not include as-  
 49 sisted feeding, such as spoon feeding or bottle feeding.

1       ~~(4)~~ (5) "Attending physician licensed independent provider" means the  
 2 physician licensed by the state board of medicine licensed independent prac-  
 3 titioner who is selected by, or assigned to, the patient and who has primary  
 4 responsibility for the treatment and care of the patient.

5       ~~(5)~~ (6) "Cardiopulmonary resuscitation" or "CPR" means measures to re-  
 6 store cardiac function and/or to support ventilation in the event of cardiac  
 7 or respiratory arrest.

8       ~~(6)~~ (7) "Comfort care" means treatment and care to provide comfort and  
 9 cleanliness. "Comfort care" includes: that may include oxygen and medicine  
 10 to relieve pain and symptoms but does not include artificial life support,  
 11 artificial hydration, and artificial nutrition. Comfort care may be pro-  
 12 vided in any setting.

13       ~~(a)~~ Oral and body hygiene;

14       ~~(b)~~ Reasonable efforts to offer food and fluids orally;

15       ~~(c)~~ Medication, positioning, warmth, appropriate lighting and other  
 16 measures to relieve pain and suffering; and

17       ~~(d)~~ Privacy and respect for the dignity and humanity of the patient.

18       ~~(7)~~ (8) "Consent to care" treatment" means the agreement an individual  
 19 makes to receive health care services. Consent to treatment also includes  
 20 refusal:

21       ~~(a)~~ Refusal to consent to care and/or withdrawal of care treatment; and

22       ~~(b)~~ Consent to withholding or withdrawal of health care services.

23       ~~(8)~~ "Directive," "advance directive" or "health care directive" means  
 24 a document that substantially meets the requirements of section 39-4510(1),  
 25 Idaho Code, or is a "Physician Orders for Scope of Treatment" (POST) form or  
 26 is another document which represents a competent person's authentic expres-  
 27 sion of such person's wishes concerning his or her health care.

28       (9) "Emergency medical services personnel" means personnel engaged in  
 29 providing initial emergency medical assistance including, but not limited  
 30 to, first responders, emergency medical technicians, and paramedics.

31       (10) "Health care agent" means a person named in an advance care plan-  
 32 ning document to make medical decisions for another person.

33       ~~(10)~~ (11) "Health care provider" or "provider" means any person or  
 34 entity licensed, certified, or otherwise authorized by law to administer  
 35 health care services in the ordinary course of business or practice of a pro-  
 36 fession, including emergency or other medical services personnel.

37       (12) "Health care services" means services for the diagnosis, preven-  
 38 tion, treatment, cure, or relief of a health condition, illness, injury, or  
 39 disease. Health care services may include hospital, medical, dental, surgi-  
 40 cal, or other services.

41       (13) "Licensed independent practitioner" means:

42       ~~(a)~~ An individual licensed as a physician or physician assistant pur-  
 43 suant to chapter 18, title 54, Idaho Code; or

44       ~~(b)~~ A person licensed as an advanced practice registered nurse pursuant  
 45 to chapter 14, title 54, Idaho Code.

46       (14) "Nonbeneficial medical treatment" means treatment:

47       ~~(a)~~ For a patient whose death, according to the reasonable medical  
 48 judgment of a licensed independent practitioner, is imminent within  
 49 hours or a few days regardless of whether the treatment is provided; or

1        (b) That, according to the reasonable medical judgment of a licensed  
 2        independent practitioner, will not benefit the patient's condition.

3        ~~(11) (15) "Persistent vegetative state" means an irreversible state~~  
 4        ~~that has been medically confirmed by a neurological specialist who is an ex-~~  
 5        ~~pert in the examination of nonresponsive individuals in which the person has~~  
 6        ~~intact brain stem function but no higher cortical function and no awareness~~  
 7        ~~of self or environment a condition in which a patient:~~

8        (a) Is in a state of partial arousal rather than true awareness;

9        (b) Is completely unresponsive to psychological or physical stimuli;  
 10       and

11       (c) Displays no sign of higher brain function.

12       ~~(12) (16) "Physician" means a person who holds a current active li-~~  
 13       ~~cence to practice medicine and surgery or osteopathic medicine and surgery~~  
 14       ~~in Idaho and is in good standing with no restriction upon or actions taken~~  
 15       ~~against his or her license shall have the same meaning as provided in section~~  
 16       ~~54-1803, Idaho Code.~~

17       ~~(13) (17) "Physician assistant" (PA) means any person, as defined in~~  
 18       ~~section 54-1803, Idaho Code, who is qualified by specialized education,~~  
 19       ~~training, experience and personal character and who has been licensed by~~  
 20       ~~the board of medicine to render patient services under the direction of a~~  
 21       ~~supervising and alternate supervising physician shall have the same meaning~~  
 22       ~~as provided in section 54-1803, Idaho Code.~~

23       ~~(14) (18) "Physician orders for scope of treatment (POST) "POST form"~~  
 24       ~~means a form that satisfies the requirements of section 39-4512A, Idaho~~  
 25       ~~Code.~~

26       ~~(15) (19) "Physician orders for scope of treatment (POST) "POST iden-~~  
 27       ~~tification device" means standardized jewelry which can be worn around~~  
 28       ~~the wrist, neck, or ankle, and which has been approved by the department~~  
 29       ~~of health and welfare. Such jewelry shall be issued only to persons who~~  
 30       ~~have representing that the wearer has a POST form complying with section~~  
 31       ~~39-4512A, Idaho Code, stating and that such person has chosen "Do Not Resus-~~  
 32       ~~cite: Allow Natural Death (No Code/DNR/DNAR): No CPR or advanced cardiac~~  
 33       ~~life support interventions" or the equivalent choice.~~

34       ~~(16) (20) "Surrogate decision-maker" means the person authorized to~~  
 35       ~~consent to or refuse health care services for another person as specified in~~  
 36       ~~section 39-4504(1), Idaho Code.~~

37       ~~(17) "Terminal condition" means an incurable or irreversible condition~~  
 38       ~~which, without the administration of life-sustaining procedures, will, in~~  
 39       ~~the opinion of a physician, result in death if it runs its usual course.~~

40       SECTION 3. That Section 39-4503, Idaho Code, be, and the same is hereby  
 41       amended to read as follows:

42       39-4503. PERSONS WHO MAY CONSENT TO THEIR OWN CARE. Any person, in-  
 43       cluding one who is developmentally disabled and not a respondent as defined  
 44       in section 66-402, Idaho Code, who comprehends the need for, the nature of,  
 45       and the significant risks ordinarily inherent in any contemplated hospital,  
 46       medical, dental, surgical or other health care, treatment or procedure  
 47       health care services is competent to consent thereto on his or her own be-  
 48       half. Any health care provider may provide such health care and services in  
 49       reliance upon such a consent ~~if the consenting person appears to the health~~

1 ~~care provider securing the consent to possess such requisite comprehension~~  
 2 ~~at the time of giving the consent.~~

3 SECTION 4. That Section 39-4504, Idaho Code, be, and the same is hereby  
 4 amended to read as follows:

5 39-4504. PERSONS WHO MAY GIVE CONSENT TO CARE FOR OTHERS. (1) Consent  
 6 for the furnishing of ~~hospital, medical, dental, surgical or other health~~  
 7 ~~care, treatment or procedures~~ health care services to any person who is not  
 8 then capable of giving such consent as provided in this chapter or who is a  
 9 minor may be given or refused in the order of priority set forth hereafter;  
 10 provided however, that the surrogate decision-maker shall have sufficient  
 11 comprehension as required to consent to his or her own health care services  
 12 pursuant to the provisions of section 39-4503, Idaho Code; and provided fur-  
 13 ther that the surrogate decision-maker shall not have authority to consent  
 14 to or refuse health care services contrary to such person's ~~advance direc-~~  
 15 ~~tives, POST~~ advance care planning document or wishes expressed by such per-  
 16 son while the person was capable of consenting to his or her own health care  
 17 services:

18 (a) The court-appointed guardian of such person;  
 19 (b) The person named in another person's ~~"Living Will and Durable~~  
 20 ~~Power of Attorney for Health Care"~~ advance care planning document as  
 21 the health care agent of such person pursuant to section 39-4510, Idaho  
 22 Code, or a similar document authorized by this chapter if the conditions  
 23 in such ~~living will~~ advance care planning document for authorizing the  
 24 agent to act have been satisfied;  
 25 (c) If married, the spouse of such person;  
 26 (d) An adult child of such person;  
 27 (e) A parent of such person;  
 28 (f) The person named in a delegation of parental authority executed  
 29 pursuant to section 15-5-104, Idaho Code;  
 30 (g) Any relative of such person ~~who represents himself or herself to be~~  
 31 ~~an appropriate, responsible person to act under the circumstances;~~  
 32 (h) Any other competent individual representing himself or herself to  
 33 be responsible for the health care of such person; or  
 34 (i) If the person presents a medical emergency or there is a substan-  
 35 tial likelihood of his or her life or health being seriously endangered  
 36 by withholding or delay in the rendering of ~~such hospital, medical,~~  
 37 ~~dental, surgical or other~~ health care services to such person and the  
 38 person has not communicated and is unable to communicate his or her  
 39 ~~treatment~~ wishes, the attending health care provider may, in his or her  
 40 discretion, authorize ~~and/or~~ provide such health care services, as he  
 41 or she deems appropriate, and all persons, agencies, and institutions  
 42 thereafter furnishing the same, including such health care provider,  
 43 may proceed as if informed, valid consent therefor had been otherwise  
 44 duly given.

45 (2) No person who, in good faith, gives consent or authorization for  
 46 the provision of ~~hospital, medical, dental, surgical or other health care,~~  
 47 ~~treatment or procedures~~ health care services to another person as provided  
 48 by this chapter shall be subject to civil liability therefor.

1 (3) No health care provider who, in good faith, obtains consent from a  
2 person pursuant to either section 39-4503 or 39-4504(1), Idaho Code, shall  
3 be subject to civil liability therefor.

4 SECTION 5. That Section 39-4505, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 39-4505. BLOOD TESTING. (1) A physician licensed independent practi-  
7 tioner may consent to ordering tests of a patient's or a deceased person's  
8 blood or other body fluids for the presence of blood-transmitted or body  
9 fluid-transmitted viruses or diseases without the prior consent of the pa-  
10 tient if:

11 (a) There has been or is likely to be a significant exposure to the pa-  
12 tient's or a deceased person's blood or body fluids by a person provid-  
13 ing emergency or medical services to such patient which may result in  
14 the transmittal of a virus or disease; and

15 (b) The patient is unconscious or incapable of giving informed consent  
16 and the physician licensed independent practitioner is unable to obtain  
17 consent pursuant to section 39-4504, Idaho Code.

18 (2) The department of health and welfare shall promulgate rules iden-  
19 tifying the blood-transmitted or body fluid-transmitted viruses or diseases  
20 for which blood tests or body fluid tests can be ordered under this section  
21 and defining the term "significant exposure" as provided in this section.

22 (3) Results of tests conducted under this section ~~which that~~ confirm  
23 the presence of a blood-transmitted or body fluid-transmitted virus or dis-  
24 ease shall be reported to the director of the department of health and wel-  
25 fare in the name of the patient or deceased person. The department records  
26 containing such test results shall be used only by public health officials  
27 who must conduct investigations. The exposed person shall only be informed  
28 of the results of the test and shall not be informed of the name of the patient  
29 or deceased person. Protocols shall be established by hospitals to maintain  
30 confidentiality while disseminating the necessary test result information  
31 to persons who may have a significant exposure to blood or other body fluids  
32 and to maintain records of such tests to preserve the confidentiality of the  
33 test results.

34 (4) Any person who willfully or maliciously discloses the results of a  
35 test conducted under this section, except pursuant to a written authoriza-  
36 tion by the person whose blood was tested or by such person's authorized rep-  
37 resentative, or as otherwise authorized by law, shall be guilty of a misde-  
38 meanor.

39 SECTION 6. That Section 39-4506, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 39-4506. SUFFICIENCY OF CONSENT. Consent, or refusal to consent, for  
42 the furnishing of health care, ~~treatment or procedures~~ services shall be  
43 valid in all respects if the person giving or refusing the consent is suffi-  
44 ciently aware of pertinent facts respecting the need for, the nature of, and  
45 the significant risks ordinarily attendant upon such a person receiving such  
46 ~~care~~ services, as to permit the giving or withholding of such consent to be  
47 a reasonably informed decision. Any such consent shall be deemed valid and

1 so informed if the health care provider to whom it is given or by whom it is  
 2 secured has made such disclosures and given such advice respecting pertinent  
 3 facts and considerations as would ordinarily be made and given under the same  
 4 or similar circumstances, ~~by a like health care provider of good standing~~  
 5 ~~practicing in the same community.~~ As used in this section, the term "in the  
 6 same community" refers to that geographic area ordinarily served by the li-  
 7 censed general hospital at or nearest to which such consent is given.

8 SECTION 7. That Section 39-4507, Idaho Code, be, and the same is hereby  
 9 amended to read as follows:

10 39-4507. FORM OF CONSENT. It is not essential to the validity of any  
 11 consent for the furnishing of ~~hospital, medical, dental or surgical care,~~  
 12 ~~treatment or procedures~~ health care services that the consent be in writing  
 13 or any other specific form of expression; provided however, when the giving  
 14 of such consent is recited or documented in writing and expressly authorizes  
 15 the ~~care, treatment or procedures~~ health care services to be furnished, and  
 16 when such writing or form has been executed or initialed by a person compe-  
 17 tent to give such consent for himself or another, such written consent, in  
 18 the absence of convincing proof that it was secured maliciously or by fraud,  
 19 is presumed to be valid for the furnishing of such ~~care, treatment or proce-~~  
 20 ~~dures~~ health care services, and the advice and disclosures of the attending  
 21 ~~physician~~ licensed independent practitioner or dentist, as well as the level  
 22 of informed awareness of the giver of such consent, shall be presumed to be  
 23 sufficient.

24 SECTION 8. That Section 39-4508, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 39-4508. RESPONSIBILITY FOR CONSENT AND DOCUMENTATION. Obtaining  
 27 sufficient consent for health care services is the duty of the attending  
 28 ~~health care provider~~ licensed independent practitioner upon whose order  
 29 or at whose direction the contemplated health care, ~~treatment or procedure~~  
 30 ~~is~~ services are rendered; provided however, a licensed hospital and any  
 31 employee of a health care provider, acting with the approval of such an at-  
 32 tending licensed independent practitioner or other individual health care  
 33 provider, may perform the ministerial act of documenting such consent by  
 34 securing the completion and execution of a form or statement in which the  
 35 giving of consent for such care is documented by or on behalf of the person.  
 36 In performing such a ministerial act, the hospital or health care provider  
 37 employee shall not be deemed to have engaged in the practice of medicine or  
 38 dentistry.

39 SECTION 9. That Section 39-4509, Idaho Code, be, and the same is hereby  
 40 amended to read as follows:

41 39-4509. STATEMENT OF POLICY -- DEFINITION. For purposes of sections  
 42 39-4509 through 39-4515, Idaho Code:

43 (1) The legislature recognizes the established common law and the fun-  
 44 damental right of competent persons to control the decisions relating to  
 45 the rendering of their ~~medical~~ health care, including the decision to have

1 ~~artificial life-sustaining procedures~~ treatment withheld or withdrawn. The  
 2 legislature further finds that modern medical technology has made possible  
 3 the artificial prolongation of human life beyond natural limits. The leg-  
 4 islature further finds that persons are sometimes unable to express their  
 5 desire to withhold or withdraw such ~~artificial life-prolongation procedures~~  
 6 ~~which provide~~ life-sustaining treatment that provides nothing medically  
 7 necessary or beneficial to the person because of the person's inability to  
 8 communicate with the ~~health care provider~~ attending licensed independent  
 9 practitioner.

10 (2) In recognition of the dignity and privacy ~~which that~~ persons have a  
 11 right to expect, the legislature hereby declares that the laws of this state  
 12 shall recognize the right of a competent person to have his or her wishes for  
 13 ~~medical treatment~~ health care services and for the withdrawal of artificial  
 14 life-sustaining ~~procedures~~ treatment carried out even though that person is  
 15 no longer able to communicate with the ~~health care provider~~ attending li-  
 16 icensed independent practitioner.

17 (3) It is the intent of the legislature to establish an effective means  
 18 for such communication. It is not the intent of the legislature that the pro-  
 19 cedures described in sections 39-4509 through 39-4515, Idaho Code, are the  
 20 only effective means of such communication, and nothing in sections 39-4509  
 21 through 39-4515, Idaho Code, shall impair or supersede any legal right or le-  
 22 gal responsibility ~~which that~~ a person may have to effect the withholding or  
 23 withdrawal of artificial life-sustaining procedures treatment in any lawful  
 24 manner, provided that this sentence shall not be construed to authorize any  
 25 violation of section 39-4514(3), Idaho Code. Any authentic expression of a  
 26 person's wishes with respect to health care services should be honored.

27 (4) "Competent person" means any person who meets the requirements of  
 28 section 39-4503, Idaho Code.

29 SECTION 10. That Section [39-4510](#), Idaho Code, be, and the same is hereby  
 30 repealed.

31 SECTION 11. That Chapter 45, Title 39, Idaho Code, be, and the same is  
 32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 33 ignated as Section 39-4510, Idaho Code, and to read as follows:

34 39-4510. ADVANCE CARE PLANNING DOCUMENT. (1) Any competent person  
 35 aged eighteen (18) years or older may execute an advance care planning doc-  
 36 ument (ACPD). Such document must contain the mandatory elements set forth  
 37 in this section. Any provisions of an ACPD that are left blank by a person  
 38 executing the document shall be deemed intentional and shall not invalidate  
 39 the document. The department of health and welfare may create and promulgate  
 40 an optional form for the ACPD. Such form is not mandatory. To be considered  
 41 a valid ACPD, a document must include:

- 42 (a) The person's name, date of birth, telephone number, and mailing ad-  
 43 dress;
- 44 (b) The signature of the person for whom the ACPD is created or the au-  
 45 thorized agent of such person; and
- 46 (c) The date on which the document was signed.

47 (2) An ACPD may but is not required to include the following:

- 48 (a) The electronic mail address of the person executing the ACPD;



- 1 (b) Nomination of one (1) or more persons to act as a health care agent;  
 2 (c) The name, mailing address, electronic mail address, and telephone  
 3 number of any person nominated as a health care agent, as well as such  
 4 person's relationship to the person executing the ACPD;  
 5 (d) Resuscitation instructions;  
 6 (e) Instructions regarding pregnancy;  
 7 (g) Instructions for the release of information protected by the fed-  
 8 eral health insurance portability and accountability act;  
 9 (h) Instructions for end-of-life care;  
 10 (i) A description of treatment objectives;  
 11 (j) The names and contact information of witnesses to the execution of  
 12 the ACPD; and  
 13 (k) Notarization.

14 SECTION 12. That Section 39-4511A, Idaho Code, be, and the same is  
 15 hereby amended to read as follows:

16 39-4511A. ~~REVOCATION OF ADVANCE DIRECTIVE~~ ADVANCE CARE PLANNING DOC-  
 17 UMENT. (1) ~~A living will and durable power of attorney for health care or~~  
 18 ~~physician orders for scope of treatment (POST) form or other advance direc-~~  
 19 ~~tive~~ An advance care planning document (ACPD) may be revoked at any time by  
 20 the maker thereof by any of the following methods:

- 21 (a) By being intentionally canceled, defaced, obliterated, ~~or~~ burned,  
 22 torn, or otherwise destroyed by the maker thereof, or by some person in  
 23 his presence and by his direction;  
 24 (b) By a written, signed revocation ~~of~~ by the maker thereof expressing  
 25 his intent to revoke;  
 26 (c) By an oral expression by the maker thereof expressing his intent to  
 27 revoke; or  
 28 (d) By any other action that clearly manifests the maker's intent to re-  
 29 voke the ~~advance directive~~ ACPD.

30 (2) The maker of the revoked ~~advance directive~~ ACPD is responsible  
 31 for notifying his health care providers of the revocation. A health care  
 32 provider who does not have actual knowledge of the revocation is entitled to  
 33 rely on an otherwise apparently valid ~~advance directive~~ ACPD as though it had  
 34 not been revoked.

35 (3) There shall be no criminal or civil liability on the part of any per-  
 36 son for the failure to act upon a revocation of a ~~living will and durable~~  
 37 ~~power of attorney for health care, physician orders for scope of treatment~~  
 38 ~~(POST) form or other advance directive~~ an ACPD made pursuant to this chapter  
 39 unless that person has actual knowledge of the revocation.

40 SECTION 13. That Section 39-4511B, Idaho Code, be, and the same is  
 41 hereby amended to read as follows:

42 39-4511B. ~~SUSPENSION OF ADVANCE DIRECTIVE~~ ADVANCE CARE PLANNING DOCU-  
 43 MENT. (1) ~~A living will and durable power of attorney for health care, physi-~~  
 44 ~~cian orders for scope of treatment (POST) form or other advance directive~~  
 45 An advance care planning document (ACPD) may be suspended at any time by the  
 46 maker thereof by any of the following methods:

1 (a) By a written, signed suspension by the maker thereof expressing his  
2 intent to suspend;

3 (b) By an oral expression by the maker thereof expressing his intent to  
4 suspend; or

5 (c) By any other action that clearly manifests the maker's intent to  
6 suspend the ~~advance directive~~ ACPD.

7 (2) A health care provider who does not have actual knowledge of the  
8 suspension is entitled to rely on an otherwise apparently valid ~~advance di-~~  
9 ~~rective~~ ACPD as though it had not been suspended.

10 (3) There shall be no criminal or civil liability on the part of any per-  
11 son for the failure to act upon a suspension of an ACPD made pursuant to this  
12 chapter unless that person has actual knowledge of the suspension.

13 ~~(3) (4) Upon meeting the termination terms of the suspension, if any,~~  
14 ~~as defined by the written or oral expression by the maker, the conditions set~~  
15 ~~forth in the living will and durable power of attorney, physician orders for~~  
16 ~~scope of treatment (POST) or other advance directive ACPD will resume.~~

17 SECTION 14. That Section 39-4512, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 39-4512. EXECUTION OF ~~LIVING WILL AND DURABLE POWER OF ATTORNEY FOR~~  
20 ~~HEALTH CARE ADVANCE CARE PLANNING DOCUMENT~~. A "~~Living Will and Durable Power~~  
21 ~~of Attorney for Health Care~~" An advance care planning document shall be ef-  
22 fective from the date of execution ~~unless otherwise revoked until it is re-~~  
23 ~~voked or replaced~~. Nothing in this chapter shall be construed to prevent a  
24 competent person from reexecuting a "~~Living Will and Durable Power of Attor-~~  
25 ~~ney for Health Care~~" an advance care planning document at any time.

26 SECTION 15. That Section 39-4512A, Idaho Code, be, and the same is  
27 hereby amended to read as follows:

28 39-4512A. PHYSICIAN ORDERS FOR SCOPE OF TREATMENT (POST). (1) ~~A physi-~~  
29 ~~cian orders for scope of treatment (POST) form is a health care provider or-~~  
30 ~~der signed by a physician or by a PA or by an APPN. The POST form must also be~~  
31 ~~signed by the person, or it must be signed by the person's~~ A POST form is an  
32 order regarding scope of treatment signed by a licensed independent practi-  
33 tioner and a person or the person's surrogate decision-maker, provided that  
34 the POST form is not shall not be contrary to the person's last known ex-  
35 pressed wishes or directions.

36 (2) The POST form shall be effective from the date of execution ~~unless~~  
37 ~~suspended or except while suspended or unless it is revoked.~~

38 ~~(3) The attending physician, APPN or PA shall, A licensed independent~~  
39 practitioner must, upon request of the person or the person's surrogate de-  
40 cision-maker, provide the person or the person's surrogate decision-maker  
41 with a copy of the POST form, discuss with the person or the person's surro-  
42 gate decision-maker the form's content and ramifications and treatment op-  
43 tions, and assist the person or the person's surrogate decision-maker in the  
44 completion of the form.

45 ~~(4) The attending physician, APPN or PA shall review the POST form:~~

46 ~~(a) Each time the physician, APPN or PA examines the person, or at least~~  
47 ~~every seven (7) days, for persons who are hospitalized; and~~

1 ~~(b) Each time the person is transferred from one (1) care setting or~~  
 2 ~~care level to another; and~~

3 ~~(c) Any time there is a substantial change in the person's health sta-~~  
 4 ~~tus; and~~

5 ~~(d) Any time the person's treatment preferences change.~~

6 Failure to meet these review requirements does not affect the POST form's va-  
 7 lidity or enforceability. As conditions warrant, the physician, APPN or PA  
 8 may issue a superseding POST form. The physician, APPN or PA shall, whenever  
 9 practical, consult with the person or the person's surrogate decision maker.

10 ~~(5) (4)~~ A person who has completed a POST form pursuant to the provi-  
 11 sions of this section or for whom a POST form has been completed at the re-  
 12 quest of his or her surrogate decision-maker may wear a POST identification  
 13 device as provided in section 39-4502~~(15)~~, Idaho Code.

14 ~~(6) (5)~~ The department of health and welfare shall develop the, promul-  
 15 gate, and revise as needed a recommended POST form.

16 SECTION 16. That Section 39-4512B, Idaho Code, be, and the same is  
 17 hereby amended to read as follows:

18 39-4512B. ADHERENCE TO ~~PHYSICIAN ORDERS FOR SCOPE OF TREATMENT~~  
 19 ~~(POST) POST~~ PROTOCOL. (1) Health care providers ~~and emergency medical ser-~~  
 20 ~~vices personnel~~ shall comply with a person's ~~physician orders for scope of~~  
 21 ~~treatment (POST) POST~~ instruction when presented with a POST form that meets  
 22 the requirements of section 39-4512A, Idaho Code, or when a person is wearing  
 23 a proper POST identification device pursuant to section 39-4512A~~(5)~~, Idaho  
 24 Code.

25 (2) A POST form that meets the requirements of section 39-4512A, Idaho  
 26 Code, is deemed to meet the requirements of "Do Not Resuscitate (DNR)" or-  
 27 ders at all Idaho health care facilities. Health care providers ~~and emer-~~  
 28 ~~gency medical services personnel~~ shall not require the completion of other  
 29 forms in order for the person's wishes to be respected.

30 (3) Nothing in this chapter is intended to nor shall it prevent  
 31 ~~physicians or other health care providers~~ licensed independent practition-  
 32 ers from executing or utilizing DNR orders consistent with their licensure;  
 33 provided however, that if the person or person's surrogate decision-maker  
 34 chooses to utilize the POST form, the health care provider licensed indepen-  
 35 dent practitioner shall accept and comply with the POST form and shall not  
 36 require the completion of a DNR order in addition to a valid POST form.

37 SECTION 17. That Section 39-4512C, Idaho Code, be, and the same is  
 38 hereby amended to read as follows:

39 39-4512C. DUTY TO INSPECT. Health care providers ~~and emergency med-~~  
 40 ~~ical services personnel~~ shall make reasonable efforts to inquire as to  
 41 whether the patient has completed a ~~physician orders for scope of treatment~~  
 42 ~~(POST) POST~~ form and inspect the patient for a POST identification device  
 43 when presented with a situation calling for artificial life-sustaining  
 44 treatment not caused by severe trauma or involving mass casualties and with  
 45 no indication of homicide or suicide.

1 SECTION 18. That Section 39-4513, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 39-4513. IMMUNITY. (1) No licensed independent practitioner, emer-  
4 gency medical services personnel, other health care provider, facility, or  
5 individual employed by, acting as the agent of, or under contract with any  
6 such health care provider or facility shall be civilly or criminally liable  
7 or subject to discipline for unprofessional conduct for acts or omissions  
8 carried out or performed in good faith pursuant to the directives in a fa-  
9 cially valid ~~POST form, living will~~ advance care planning document, DNR  
10 order, or other health care directive, or pursuant to a POST identification  
11 device as provided for in section 39-4512A(5), Idaho Code.

12 (2) Any ~~physician~~ licensed independent practitioner or other health  
13 care provider who for ethical or professional reasons is ~~incapable or un-~~  
14 willing to conform to the desires of the ~~person who may give consent to~~  
15 ~~care for the patient under section 39-4504, Idaho Code, as expressed by the~~  
16 ~~procedures set forth in this chapter~~ patient or the patient's surrogate  
17 decision-maker may, subject to the requirements of section 39-4514(3),  
18 Idaho Code, withdraw without incurring any civil or criminal liability pro-  
19 vided the ~~physician~~ licensed independent practitioner or other health care  
20 provider, before withdrawal of his or her participation, makes a good faith  
21 effort to assist the ~~person~~ patient in obtaining the services of another  
22 ~~physician~~ licensed independent practitioner or other health care provider  
23 who is willing to provide care for the ~~person~~ patient in accordance with the  
24 ~~person's~~ patient's expressed or documented wishes.

25 (3) No person who exercises the responsibilities of a ~~durable power of~~  
26 ~~attorney for~~ health care agent in good faith shall be subject to civil or  
27 criminal liability as a result.

28 (4) Neither the registration of a ~~health care directive~~ an advance  
29 care planning document in the health care directive registry under section  
30 39-4515, Idaho Code, nor the revocation or replacement of such a ~~directive~~ an  
31 advance care planning document requires a licensed independent practitioner  
32 or other health care provider to request information from that registry.  
33 The decision of a licensed independent practitioner or other health care  
34 provider to request or not to request a ~~health care directive~~ an advance  
35 care planning document from the registry shall be immune from civil or crim-  
36 inal liability. A licensed independent practitioner or other health care  
37 provider who in good faith acts in reliance on a facially valid ~~health care~~  
38 ~~directive~~ advance care planning document received from the health care di-  
39 rective registry shall be immune from civil or criminal liability for those  
40 acts done in such reliance.

41 (5) ~~Health~~ Licensed independent practitioners and other health care  
42 providers and ~~emergency medical services personnel~~ may disregard the POST  
43 form or a POST identification device or a DNR order:

- 44 (a) If they believe in good faith that the order has been revoked; ~~or~~  
45 (b) To avoid oral or physical confrontation; or  
46 (c) If ordered to do so by ~~the attending physician~~ a licensed indepen-  
47 dent practitioner.

48 SECTION 19. That Section 39-4514, Idaho Code, be, and the same is hereby  
49 amended to read as follows:

1 39-4514. GENERAL PROVISIONS. (1) Application. Except as specifically  
2 provided ~~herein~~ in this section, sections 39-4510 through 39-4512B, Idaho  
3 Code, shall have no effect or be in any manner construed to apply to persons  
4 not executing a ~~living will and durable power of attorney for health care,~~  
5 ~~POST form~~ an advance care planning document or other health care directive  
6 pursuant to this chapter nor shall these sections in any manner affect the  
7 rights of any such persons or of others acting for or on behalf of such per-  
8 sons to give or refuse to give consent or withhold consent for any ~~medical~~  
9 ~~care~~ health care services; neither shall sections 39-4510 through 39-4512B,  
10 Idaho Code, be construed to affect chapter 3 or chapter 4, title 66, Idaho  
11 Code, in any manner.

12 (2) Euthanasia, mercy killing, or assisted suicide. This chapter  
13 does not make legal, and in no way condones, euthanasia, mercy killing, or  
14 assisted suicide or permit an affirmative or deliberate act or omission to  
15 end life, including any act or omission described in section 18-4017, Idaho  
16 Code, other than to allow the natural process of dying.

17 (3) Withdrawal of care. Assisted feeding or artificial nutrition and  
18 hydration may not be withdrawn or denied if its provision is directed by  
19 a competent patient in accordance with section 39-4503, Idaho Code, by a  
20 patient's ~~health care directive~~ advance care planning document under sec-  
21 tion 39-4510, Idaho Code, or by a patient's surrogate decision-maker in  
22 accordance with section 39-4504, Idaho Code. Health care services neces-  
23 sary to sustain life or to provide appropriate comfort for a patient other  
24 than assisted feeding or artificial nutrition and hydration may not be  
25 withdrawn or denied if its provision is directed by a competent patient in  
26 accordance with section 39-4503, Idaho Code, by a patient's ~~health care~~  
27 ~~directive~~ advance care planning document under section 39-4510, Idaho  
28 Code, or by a patient's surrogate decision-maker in accordance with sec-  
29 tion 39-4504, Idaho Code, unless such care would be ~~futile care as defined~~  
30 ~~in subsection (6) of this section~~ nonbeneficial medical treatment. Except  
31 as specifically provided in chapters 3 and 4, title 66, Idaho Code, health  
32 care services, assisted feeding, or artificial nutrition and hydration,  
33 the denial of which is directed by a competent patient in accordance with  
34 section 39-4503, Idaho Code, by a patient's ~~health care directive~~ advance  
35 care planning document under section 39-4510, Idaho Code, or by a patient's  
36 surrogate decision-maker in accordance with section 39-4504, Idaho Code,  
37 shall be withdrawn and denied in accordance with a valid ~~directive~~. ~~This~~  
38 ~~subsection does not require provision of treatment to a patient if it would~~  
39 ~~require denial of the same or similar treatment to another patient~~ advance  
40 care planning document.

41 (4) Comfort care. Persons caring for a person for whom artificial life-  
42 sustaining ~~procedures~~ treatment or artificially administered nutrition and  
43 hydration are withheld or withdrawn shall provide comfort care as defined in  
44 section 39-4502, Idaho Code.

45 (5) Presumed consent to resuscitation. There is a presumption in favor  
46 of consent to cardiopulmonary resuscitation (CPR) unless:

47 (a) CPR is contrary to the person's advance ~~directive and/or POST~~ care  
48 planning document;

49 (b) The person's surrogate decision-maker has communicated the per-  
50 son's unconditional wishes not to receive CPR;

1 (c) The person's surrogate decision-maker has communicated the per-  
2 son's conditional wishes not to receive CPR and those conditions have  
3 been met;

4 (d) The person has a proper POST identification device pursuant to sec-  
5 tion 39-4502(15), Idaho Code; or

6 (e) ~~The attending health care provider~~ licensed independent prac-  
7 titioner has executed a DNR order ~~consistent with the person's prior~~  
8 ~~expressed wishes or the directives of the legally authorized surrogate~~  
9 ~~decision-maker.~~

10 (6) ~~Futile care~~ Nonbeneficial medical treatment. Nothing in this chap-  
11 ter shall be construed to require nonbeneficial medical treatment ~~that is~~  
12 ~~medically inappropriate or futile~~; provided that this subsection does not  
13 authorize any violation of subsection (3) of this section. ~~Futile care does~~  
14 ~~not include comfort care. Futile care is a course of treatment:~~

15 ~~(a) For a patient with a terminal condition for whom, in reasonable~~  
16 ~~medical judgment, death is imminent within hours or at most a few days~~  
17 ~~whether or not the medical treatment is provided and that, in reasonable~~  
18 ~~medical judgment, will not improve the patient's condition; or~~

19 ~~(b) The denial of which in reasonable medical judgment will not result~~  
20 ~~in or hasten the patient's death.~~

21 (7) ~~Existing directives and directives from other states~~ advance care  
22 planning documents. ~~A health care directive executed prior to July 1, 2012,~~  
23 ~~but which was in the living will, durable power of attorney for health care,~~  
24 ~~DNR, or POST form pursuant to prior Idaho law at the time of execution, or~~  
25 ~~in another form that contained the elements set forth in this chapter at the~~  
26 ~~time of execution,~~ Any advance care planning document that contained the  
27 elements set forth in this chapter at the time of execution shall be deemed  
28 to be in compliance with this chapter. ~~Health care directives or similar~~  
29 ~~documents executed in another state that substantially comply with this~~  
30 ~~chapter shall be deemed to be in compliance with this chapter. This section~~  
31 ~~shall be liberally construed to give the effect to any authentic expression~~  
32 ~~of the person's prior wishes or directives concerning his or her health care~~  
33 services.

34 (8) Insurance.

35 (a) ~~The making of a living will and/or durable power of attorney for~~  
36 ~~health care, physician orders for scope of treatment (POST) form, an~~  
37 ~~advance care planning document or a DNR order pursuant to this chapter~~  
38 ~~shall not restrict, inhibit, or impair in any manner the sale, procure-~~  
39 ~~ment, or issuance of any policy of life insurance, nor shall it be deemed~~  
40 ~~to modify the terms of an existing policy of life insurance. No pol-~~  
41 ~~icy of life insurance shall be legally impaired or invalidated in any~~  
42 ~~manner by the withholding or withdrawal of artificial life-sustaining~~  
43 ~~procedures~~ treatment from an insured person, notwithstanding any term  
44 of the policy to the contrary.

45 (b) ~~No physician~~ licensed independent practitioner, health care facil-  
46 ity, or other health care provider and no health care service plan, in-  
47 surer issuing disability insurance, self-insured employee plan, wel-  
48 fare benefit plan, or nonprofit hospital service plan shall require any  
49 person to execute ~~a living will and durable power of attorney for health~~  
50 ~~care or physician orders for scope of treatment (POST) form,~~ an advance

1 care planning document or a DNR order as a condition for being insured  
 2 for, or receiving, health care services.

3 (9) Portability and copies.

4 ~~(a) A physician orders for scope of treatment (POST) POST form that~~  
 5 ~~meets the requirements of section 39-4512A, Idaho Code, shall be trans-~~  
 6 ~~ferred with the person to, and be effective in, all care settings~~  
 7 ~~including, but not limited to, home care, ambulance or other transport,~~  
 8 ~~hospital, residential care facility, and hospice care. The POST form~~  
 9 ~~shall remain in effect until such time as there is a valid revocation or~~  
 10 ~~suspension pursuant to section 39-4511A, Idaho Code, or new orders are~~  
 11 ~~issued by a physician, APPN or PA licensed independent practitioner.~~

12 (b) A photostatic, facsimile, or electronic copy of a valid ~~physician~~  
 13 ~~orders for scope of treatment (POST) POST form may be treated as an~~  
 14 ~~original by a licensed independent practitioner or other health care~~  
 15 ~~provider or by an institution receiving or treating a person.~~

16 (10) Registration. ~~A directive~~ An advance care planning document or the  
 17 revocation or replacement of a directive an advance care planning document  
 18 meeting the requirements of this chapter may be registered with the depart-  
 19 ment of health and welfare pursuant to section 39-4515, Idaho Code. Failure  
 20 to register the health care directive advance care planning document shall  
 21 not affect the validity of the health care directive advance care planning  
 22 document.

23 (11) Rulemaking authority.

24 ~~(a) The department of health and welfare shall adopt those rules and~~  
 25 ~~protocols necessary to administer the provisions of this chapter.~~

26 ~~(b) In the adoption of a physician orders for scope of treatment (POST)~~  
 27 ~~or DNR protocol, the department shall adopt standardized POST identifi-~~  
 28 ~~cation devices to be used statewide.~~

29 SECTION 20. That Section 39-4515, Idaho Code, be, and the same is hereby  
 30 amended to read as follows:

31 39-4515. HEALTH CARE DIRECTIVE REGISTRY. (1) The department of health  
 32 and welfare shall create and maintain a health care directive registry. The  
 33 health care directive registry shall be accessible through a web-based plat-  
 34 form. The information contained in such registry shall include: the full  
 35 name of the person executing the health care directive advance care planning  
 36 document as stated in the directive such document, a file identification  
 37 number unique to the person executing the directive, the person's date of  
 38 birth, telephone number, and mailing address, and the date the directive  
 39 advance care planning document was executed. The registry shall be made  
 40 available twenty-four (24) hours a day, seven (7) days a week and shall in-  
 41 corporate directives advance care planning documents previously submitted  
 42 to the secretary of state. A person may register with the department of  
 43 health and welfare a health care directive an advance care planning document  
 44 or a revocation of a health care directive an advance care planning document  
 45 by submitting the directive document or revocation, completing and submit-  
 46 ting an informational registration form as required by the department of  
 47 health and welfare, and paying the department the fee that the department  
 48 may require for registering a health care directive an advance care planning  
 49 document. The person may register either online or by submitting the regis-

1 tration form in the mail. The person who submits a document for registration  
 2 pursuant to this section by mail shall provide a return address. The de-  
 3 partment of health and welfare may charge and collect a fee not to exceed ten  
 4 dollars (\$10.00) for the filing of a ~~health care directive~~ an advance care  
 5 planning document. All fees collected for the filing of a ~~health care di-~~  
 6 ~~rective an advance care planning document~~ shall be deposited into the health  
 7 care directive registry fund. No fee shall be charged for revoking a ~~health~~  
 8 ~~care directive~~ an advance care planning document.

9 ~~(2) The registry established under this section shall be accessible~~  
 10 ~~only by entering the identification file number and the assigned password on~~  
 11 ~~the health care directive registry.~~

12 ~~(3) (2)~~ The department of health and welfare and those granted access  
 13 to the health care directive registry shall use information contained in the  
 14 registry only for purposes prescribed in this section. No person granted ac-  
 15 cess to the registry shall use the information for commercial solicitations  
 16 or in any fraudulent or improper way. Any commercial solicitation or fraud-  
 17 ulent or improper use of information contained in the registry shall consti-  
 18 tute a violation of this section and a violation of the Idaho consumer pro-  
 19 tection act.

20 ~~(4) (3)~~ The department of health and welfare is not required to review  
 21 a ~~health care directive~~ an advance care planning document or ~~revocation~~  
 22 ~~replacement~~ thereof to ensure that the document complies with any applica-  
 23 ble and statutory requirements. Entry of a document into the health care  
 24 directive registry pursuant to this section does not create a presumption  
 25 favoring the validity of the document.

26 ~~(5) (4)~~ The department of health and welfare shall delete a ~~health care~~  
 27 ~~directive~~ an advance care planning document and the informational regis-  
 28 tration form from the health care directive registry when the department of  
 29 health and welfare receives:

30 (a) Written notification to remove a ~~health care directive~~ an advance  
 31 care planning document signed by the maker thereof or that person's  
 32 ~~legal representative along with the identification file number and as-~~  
 33 ~~signed password~~ surrogate decision-maker; or

34 (b) Verification from the bureau of vital records and health statistics  
 35 of the department of health and welfare that the person who executed the  
 36 ~~health care directive~~ advance care planning document is deceased. The  
 37 deletion under this paragraph shall be performed not less than once ev-  
 38 ery two (2) years.

39 ~~(6) (5)~~ Neither the department of health and welfare nor the state of  
 40 Idaho shall be subject to civil liability for any claims or demands aris-  
 41 ing out of the administration or operation of the health care directive reg-  
 42 istry.

43 ~~(7) (6)~~ There is hereby created in the state treasury the health care  
 44 directive registry fund, the moneys of which shall be continuously appro-  
 45 priated, administered by the department of health and welfare, and used to  
 46 support, promote, and maintain the health care directive registry. The fund  
 47 shall consist of fees paid by persons registering ~~health care directives~~  
 48 advance care planning documents under this section and income from invest-  
 49 ment from the fund, gifts, grants, bequests, and other forms of voluntary  
 50 donations. On notice from the department of health and welfare, the state



1 treasurer shall invest and divest moneys in the fund, and moneys earned from  
2 such investment shall be credited to the fund.

3 SECTION 21. That Section 39-4516, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 39-4516. LIFE-SUSTAINING TREATMENT FOR UNEMANCIPATED MINORS. (1)  
6 This section shall be known and may be cited as "Simon's Law."

7 (2) As used in this section:

8 (a) "Order not to resuscitate" means a ~~physician's~~ licensed indepen-  
9 dent practitioner's order that resuscitative measures shall not be  
10 provided to a person under a ~~physician's~~ licensed independent practi-  
11 tioner's care in the event the person is found to have cardiopulmonary  
12 cessation. "Order not to resuscitate" shall include but is not limited  
13 to ~~physician~~ orders written as "do not resuscitate," "do not allow re-  
14 suscitation," "do not allow resuscitative measures," "DNAR," "DNR,"  
15 "allow natural death," or "AND";

16 (b) "Reasonable medical judgment" means a medical judgment that would  
17 be made by a reasonably prudent ~~health care provider~~ licensed inde-  
18 pendent practitioner who is knowledgeable about a patient's case and  
19 the treatment possibilities with respect to the medical conditions in-  
20 volved; and

21 (c) "Unemancipated minor" means a minor who is not married or is not in  
22 active military service.

23 (3) An order not to resuscitate, an order to withhold artificial  
24 life-sustaining ~~procedures~~ treatment, an order to withhold artificial  
25 nutrition and hydration, and a similar ~~physician's~~ licensed independent  
26 practitioner's order shall not be instituted, either orally or in writing,  
27 unless at least one (1) parent or legal guardian of an unemancipated minor  
28 who is a patient or resident of a hospital or health care facility under whose  
29 care the unemancipated minor has been admitted has first been notified of the  
30 ~~physician's~~ licensed independent practitioner's intent to institute such  
31 an order, and reasonable attempts have been made to notify any other parent  
32 or legal guardian, provided such parent or guardian is reasonably available  
33 and has custodial or visitation rights. Such notification must be provided  
34 both orally and in writing to at least one (1) parent or legal guardian of the  
35 unemancipated minor patient unless, in the ~~physician's~~ licensed independent  
36 practitioner's reasonable medical judgment, the urgency of the decision re-  
37 quires reliance on only providing the information orally. Such notification  
38 must also include informing the parent or legal guardian of the forty-eight  
39 (48) hour provision in subsection (5) of this section. Unless the parent  
40 or legal guardian agrees with the implementation of the following orders,  
41 an order not to resuscitate, an order to withhold artificial life-sustain-  
42 ing ~~procedures~~ treatment, an order to withhold artificial nutrition and  
43 hydration, or a similar ~~physician's~~ licensed independent practitioner's  
44 order shall not be instituted, either orally or in writing, until at least  
45 forty-eight (48) hours after oral and written notice have been provided to  
46 at least one (1) parent or legal guardian in accordance with this section.  
47 The provision of such notification must be contemporaneously recorded in the  
48 patient's medical record, specifying by whom and to whom the notification  
49 was given, the date and time of its provision, and whether it was provided

1 in writing as well. When only one (1) parent or guardian has been notified,  
2 the nature of reasonable attempts to inform another parent or guardian, or  
3 the reason why such attempts were not made, must also be contemporaneously  
4 recorded in the unemancipated minor patient's medical record.

5 (4) The requirements of subsection (3) of this section shall not apply  
6 after seventy-two (72) hours of diligent efforts have been made by the health  
7 care provider, without success, to contact and notify at least one (1) known  
8 parent or legal guardian of the unemancipated minor patient of the intent to  
9 implement an order not to resuscitate, an order to withhold artificial life-  
10 sustaining ~~procedures~~ treatment, an order to withhold artificial nutrition  
11 and hydration, or a similar ~~physician's~~ licensed independent practitioner's  
12 order.

13 (5) Within forty-eight (48) hours of being notified of the intent to in-  
14 stitute an order not to resuscitate, an order to withhold artificial life-  
15 sustaining ~~procedures~~ treatment, an order to withhold artificial nutrition  
16 and hydration, or a similar ~~physician's~~ licensed independent practitioner's  
17 order according to subsection (3) of this section, a parent or legal guardian  
18 shall be entitled to request a transfer of the unemancipated minor patient  
19 or resident to another facility or discharge. If a transfer is requested by  
20 a parent or legal guardian, the hospital or health care facility under whose  
21 care the unemancipated minor is admitted must continue provision of arti-  
22 ficial life-sustaining ~~procedures~~ treatment and life-sustaining artificial  
23 nutrition and hydration for a minimum of fifteen (15) days after the transfer  
24 request has been made known and make every reasonable effort to assist the  
25 requesting parent or legal guardian in the transfer process. The hospital or  
26 health care facility's duties and financial obligations regarding transfer  
27 shall be governed by existing state law, applicable rules or regulations,  
28 hospital policy, and relevant third-party payment contracts.

29 (6) If a transfer cannot be arranged and executed within fifteen (15)  
30 days from the parent's or guardian's request to transfer, an order not to  
31 resuscitate, an order to withhold artificial life-sustaining ~~procedures~~  
32 treatment, an order to withhold artificial nutrition and hydration, or a  
33 similar ~~physician's~~ licensed independent practitioner's order may be insti-  
34 tuted.

35 (7) Nothing in this section shall be construed to limit the rights pur-  
36 suant to section 39-4503, 39-4504, 39-4509, or 39-4510, Idaho Code.

37 SECTION 22. That Section 74-106, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 74-106. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PER-  
40 SONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following  
41 records are exempt from disclosure:

42 (1) Except as provided in this subsection, all personnel records of  
43 a current or former public official other than the public official's pub-  
44 lic service or employment history, classification, pay grade and step,  
45 longevity, gross salary and salary history, including bonuses, severance  
46 packages, other compensation or vouchered and unvouchered expenses for  
47 which reimbursement was paid, status, workplace and employing agency. All  
48 other personnel information relating to a public employee or applicant  
49 including, but not limited to, information regarding sex, race, marital

1 status, birth date, home address and telephone number, social security num-  
2 ber, driver's license number, applications, testing and scoring materials,  
3 grievances, correspondence and performance evaluations, shall not be dis-  
4 closed to the public without the employee's or applicant's written consent.  
5 Names of applicants to classified or merit system positions shall not be dis-  
6 closed to the public without the applicant's written consent. Disclosure of  
7 names as part of a background check is permitted. Names of the five (5) final  
8 applicants to all other positions shall be available to the public. If such  
9 group is less than five (5) finalists, then the entire list of applicants  
10 shall be available to the public. A public official or authorized represen-  
11 tative may inspect and copy his personnel records, except for material used  
12 to screen and test for employment.

13 (2) Retired employees' and retired public officials' home addresses,  
14 home telephone numbers and other financial and nonfinancial membership  
15 records; active and inactive member financial and membership records and  
16 mortgage portfolio loan documents maintained by the public employee retire-  
17 ment system. Financial statements prepared by retirement system staff,  
18 funding agents and custodians concerning the investment of assets of the  
19 public employee retirement system of Idaho are not considered confidential  
20 under this chapter.

21 (3) Information and records submitted to the Idaho state lottery for  
22 the performance of background investigations of employees, lottery retail-  
23 ers and major procurement contractors; audit records of lottery retailers,  
24 vendors and major procurement contractors submitted to or performed by the  
25 Idaho state lottery; validation and security tests of the state lottery for  
26 lottery games; business records and information submitted pursuant to sec-  
27 tions 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such docu-  
28 ments and information obtained and held for the purposes of lottery security  
29 and investigative action as determined by lottery rules unless the public  
30 interest in disclosure substantially outweighs the private need for protec-  
31 tion from public disclosure.

32 (4) Records of a personal nature as follows:

33 (a) Records of personal debt filed with a public agency pursuant to law;

34 (b) Personal bank records compiled by a public depositor for the pur-  
35 pose of public funds transactions conducted pursuant to law;

36 (c) Records of ownership of financial obligations and instruments of a  
37 public agency, such as bonds, compiled by the public agency pursuant to  
38 law;

39 (d) Records, with regard to the ownership of, or security interests in,  
40 registered public obligations;

41 (e) Vital statistics records;

42 (f) Military records as described in and pursuant to section 65-301,  
43 Idaho Code;

44 (g) Social security numbers; and

45 (h) The following personal data identifiers for an individual may be  
46 disclosed only in the following redacted format:

47 (i) The initials of any minor children of the individual;

48 (ii) A date of birth in substantially the following format:

49 "XX/XX/birth year";

1 (iii) The last four (4) digits of a financial account number in  
2 substantially the following format: "XXXXX1234";

3 (iv) The last four (4) digits of a driver's license number or  
4 state-issued personal identification card number in substan-  
5 tially the following format: "XXXXX350F"; and

6 (v) The last four (4) digits of an employer identification number  
7 or business's taxpayer identification number.

8 (5) Information in an income or other tax return measured by items of  
9 income or sales, which is gathered by a public agency for the purpose of ad-  
10 ministering the tax, except such information to the extent disclosed in a  
11 written decision of the tax commission pursuant to a taxpayer protest of a  
12 deficiency determination by the tax commission, under the provisions of sec-  
13 tion 63-3045B, Idaho Code.

14 (6) Records of a personal nature related directly or indirectly to the  
15 application for and provision of statutory services rendered to persons  
16 applying for public care for people who are elderly, indigent or have mental  
17 or physical disabilities, or participation in an environmental or a public  
18 health study, provided the provisions of this subsection making records  
19 exempt from disclosure shall not apply to the extent that such records or  
20 information contained in those records are necessary for a background check  
21 on an individual that is required by federal law regulating the sale of  
22 firearms, guns or ammunition.

23 (7) Employment security information, except that a person may agree,  
24 through written, informed consent, to waive the exemption so that a third  
25 party may obtain information pertaining to the person, unless access to the  
26 information by the person is restricted by subsection (3) (a), (3) (b) or  
27 (3) (d) of section 74-113, Idaho Code. Notwithstanding the provisions of  
28 section 74-113, Idaho Code, a person may not review identifying information  
29 concerning an informant who reported to the department of labor a suspected  
30 violation by the person of the employment security law, chapter 13, title 72,  
31 Idaho Code, under an assurance of confidentiality. As used in this section  
32 and in chapter 13, title 72, Idaho Code, "employment security information"  
33 means any information descriptive of an identifiable person or persons that  
34 is received by, recorded by, prepared by, furnished to or collected by the  
35 department of labor or the industrial commission in the administration of  
36 the employment security law.

37 (8) Any personal records, other than names, business addresses and  
38 business phone numbers, such as parentage, race, religion, sex, height,  
39 weight, tax identification and social security numbers, financial worth or  
40 medical condition submitted to any public agency pursuant to a statutory  
41 requirement for licensing, certification, permit or bonding.

42 (9) Unless otherwise provided by agency rule, information obtained as  
43 part of an inquiry into a person's fitness to be granted or retain a license,  
44 certificate, permit, privilege, commission or position, private associa-  
45 tion peer review committee records authorized in title 54, Idaho Code. Any  
46 agency that has records exempt from disclosure under the provisions of this  
47 subsection shall annually make available a statistical summary of the number  
48 and types of matters considered and their disposition.

49 (10) The records, findings, determinations and decisions of any prelit-  
50 igation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

1 (11) Complaints received by the board of medicine and investigations  
2 and informal proceedings, including informal proceedings of any committee  
3 of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and  
4 rules adopted thereunder.

5 (12) Records of the department of health and welfare or a public health  
6 district that identify a person infected with a reportable disease.

7 (13) Records of hospital care, medical records, including prescrip-  
8 tions, drug orders, records or any other prescription information that  
9 specifically identifies an individual patient, prescription records main-  
10 tained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho  
11 Code, records of psychiatric care or treatment and professional counseling  
12 records relating to an individual's condition, diagnosis, care or treat-  
13 ment, provided the provisions of this subsection making records exempt from  
14 disclosure shall not apply to the extent that such records or information  
15 contained in those records are necessary for a background check on an indi-  
16 vidual that is required by federal law regulating the sale of firearms, guns  
17 or ammunition.

18 (14) Information collected pursuant to the directory of new hires act,  
19 chapter 16, title 72, Idaho Code.

20 (15) Personal information contained in motor vehicle and driver records  
21 that is exempt from disclosure under the provisions of chapter 2, title 49,  
22 Idaho Code.

23 (16) Records of the financial status of prisoners pursuant to subsec-  
24 tion (2) of section 20-607, Idaho Code.

25 (17) Records of the Idaho state police or department of correction re-  
26 ceived or maintained pursuant to section 19-5514, Idaho Code, relating to  
27 DNA databases and databanks.

28 (18) Records of the department of health and welfare relating to a sur-  
29 vey, resurvey or complaint investigation of a licensed nursing facility  
30 shall be exempt from disclosure. Such records shall, however, be subject to  
31 disclosure as public records as soon as the facility in question has received  
32 the report, and no later than the fourteenth day following the date that de-  
33 partment of health and welfare representatives officially exit the facility  
34 pursuant to federal regulations. Provided however, that for purposes of  
35 confidentiality, no record shall be released under this section that specif-  
36 ically identifies any nursing facility resident.

37 (19) Records and information contained in the registry of immunizations  
38 against childhood diseases maintained in the department of health and wel-  
39 fare, including information disseminated to others from the registry by the  
40 department of health and welfare.

41 (20) Records of the Idaho housing and finance association (IHFA) relat-  
42 ing to the following:

43 (a) Records containing personal financial, family, health or similar  
44 personal information submitted to or otherwise obtained by the IHFA;

45 (b) Records submitted to or otherwise obtained by the IHFA with regard  
46 to obtaining and servicing mortgage loans and all records relating to  
47 the review, approval or rejection by the IHFA of said loans;

48 (c) Mortgage portfolio loan documents;

49 (d) Records of a current or former employee other than the employee's  
50 duration of employment with the association, position held and loca-

1 tion of employment. This exemption from disclosure does not include the  
2 contracts of employment or any remuneration, including reimbursement  
3 of expenses, of the executive director, executive officers or commis-  
4 sioners of the association. All other personnel information relating  
5 to an association employee or applicant including, but not limited to,  
6 information regarding sex, race, marital status, birth date, home ad-  
7 dress and telephone number, applications, testing and scoring materi-  
8 als, grievances, correspondence, retirement plan information and per-  
9 formance evaluations, shall not be disclosed to the public without the  
10 employee's or applicant's written consent. An employee or authorized  
11 representative may inspect and copy that employee's personnel records,  
12 except for material used to screen and test for employment or material  
13 not subject to disclosure elsewhere in the Idaho public records act.

14 (21) Records of the department of health and welfare related to child  
15 support services in cases in which there is reasonable evidence of domestic  
16 violence, as defined in chapter 63, title 39, Idaho Code, that can be used  
17 to locate any individuals in the child support case except in response to a  
18 court order.

19 (22) Records of the Idaho state bar lawyer assistance program pursuant  
20 to chapter 49, title 54, Idaho Code, unless a participant in the program au-  
21 thORIZES the release pursuant to subsection (4) of section 54-4901, Idaho  
22 Code.

23 (23) Records and information contained in the time sensitive emergency  
24 registry created by chapter 20, title 57, Idaho Code, together with any re-  
25 ports, analyses and compilations created from such information and records.

26 (24) Records contained in the court files, or other records prepared as  
27 part of proceedings for judicial authorization of sterilization procedures  
28 pursuant to chapter 39, title 39, Idaho Code.

29 (25) The physical voter registration application on file in the county  
30 clerk's office; however, a redacted copy of said application shall be made  
31 available consistent with the requirements of this section. Information  
32 from the voter registration application maintained in the statewide voter  
33 registration database, including age, will be made available except for  
34 the voter's driver's license number, date of birth and, upon a showing that  
35 the voter comes within the provisions of subsection (30) of this section or  
36 upon showing of good cause by the voter to the county clerk in consultation  
37 with the county prosecuting attorney, the physical residence address of the  
38 voter. For the purposes of this subsection, good cause shall include the  
39 protection of life and property and protection of victims of domestic vio-  
40 lence and similar crimes.

41 (26) ~~File numbers, passwords and information~~ Information in the files  
42 of the health care directive registry maintained by the department of health  
43 and welfare under section 39-4515, Idaho Code, ~~are~~ is confidential and shall  
44 not be disclosed to any person other than to the person who executed ~~the~~  
45 ~~health care directive~~ an advance care planning document or the revocation  
46 thereof and that person's ~~legal representatives~~ surrogate decision-maker,  
47 to the person who registered ~~the health care directive~~ an advance care plan-  
48 ning document or revocation thereof, and to physicians, hospitals, medical  
49 personnel, nursing homes, and other persons who have been granted ~~file num-~~

1 ~~ber and password access to the documents within that specific file in the~~  
2 registry.

3 (27) Records in an address confidentiality program participant's file  
4 as provided for in chapter 57, title 19, Idaho Code, other than the address  
5 designated by the secretary of state, except under the following circum-  
6 stances:

7 (a) If requested by a law enforcement agency, to the law enforcement  
8 agency; or

9 (b) If directed by a court order, to a person identified in the order.

10 (28) Except as otherwise provided by law relating to the release of in-  
11 formation to a governmental entity or law enforcement agency, any personal  
12 information including, but not limited to, names, personal and business ad-  
13 dresses and phone numbers, sex, height, weight, date of birth, social secu-  
14 rity and driver's license numbers, or any other identifying numbers and/or  
15 information related to any Idaho fish and game licenses, permits and tags un-  
16 less written consent is obtained from the affected person.

17 (29) Documents and records related to alternatives to discipline that  
18 are maintained by the Idaho board of veterinary medicine under the provi-  
19 sions of section 54-2118(1)(b), Idaho Code, provided the requirements set  
20 forth therein are met.

21 (30) The Idaho residential street address and telephone number of an el-  
22 igible law enforcement officer and such officer's residing household mem-  
23 ber(s) as provided for in chapter 58, title 19, Idaho Code, except under the  
24 following circumstances:

25 (a) If directed by a court order, to a person identified in the court  
26 order;

27 (b) If requested by a law enforcement agency, to the law enforcement  
28 agency;

29 (c) If requested by a financial institution or title company for busi-  
30 ness purposes, to the requesting financial institution or title com-  
31 pany; or

32 (d) If the law enforcement officer provides written permission for dis-  
33 closure of such information.

34 (31) All information exchanged between the Idaho transportation de-  
35 partment and insurance companies, any database created, all information  
36 contained in the verification system and all reports, responses or other  
37 information generated for the purposes of the verification system, pursuant  
38 to section 49-1234, Idaho Code.

39 (32) Nothing in this section shall prohibit the release of information  
40 to the state controller as the state social security administrator as pro-  
41 vided in section 59-1101A, Idaho Code.

42 (33) Personal information including, but not limited to, property val-  
43 ues, personal and business addresses, phone numbers, dates of birth, social  
44 security and driver's license numbers or any other identifying numbers or  
45 information maintained by the administrator of the unclaimed property law  
46 set forth in chapter 5, title 14, Idaho Code. Nothing in this subsection  
47 shall prohibit the release of names, last known city of residence, property  
48 value ranges and general property information by the administrator for the  
49 purpose of reuniting unclaimed property with its owner.

1           (34) Any personal information collected by the secretary of state,  
2 pursuant to section 67-906(1) (b), Idaho Code, for the purpose of allowing  
3 individuals to access the statewide electronic filing system authorized in  
4 section 67-906, Idaho Code, except campaign contact phone numbers for candi-  
5 dates or committees, which shall be publicly available upon request; and any  
6 notification email addresses submitted as part of a lobbyist's registration  
7 under section 67-6617, Idaho Code, of an employer, client, or designated  
8 contact for the purpose of electronic notification of that employer, client,  
9 or designated contact of a report filed under section 67-6619, Idaho Code.

10           SECTION 23. An emergency existing therefor, which emergency is hereby  
11 declared to exist, this act shall be in full force and effect on and after  
12 July 1, 2023.