

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 519

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO HEALTH; AMENDING CHAPTER 45, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4516, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING LIFE-SUSTAINING TREATMENT FOR UNEMANCIPATED MINORS.

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

SECTION 1. That Chapter 45, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4516, Idaho Code, and to read as follows:

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

(2) As used in this section:

(a) "Order not to resuscitate" means a physician's order that resuscitative measures shall not be provided to a person under a physician's care in the event the person is found to have cardiopulmonary cessation. "Order not to resuscitate" shall include but is not limited to physician orders written as "do not resuscitate," "do not allow resuscitation," "do not allow resuscitative measures," "DNAR," "DNR," "allow natural death," or "AND";

(b) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent health care provider who is knowledgeable about a patient's case and the treatment possibilities with respect to the medical conditions involved; and

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

(3) An order not to resuscitate, an order to withhold artificial life-sustaining procedures, an order to withhold artificial nutrition and hydration, and a similar physician's order shall not be instituted, either orally or in writing, unless at least one (1) parent or legal guardian of an unemancipated minor who is a patient or resident of a hospital or health care facility under whose care the unemancipated minor has been admitted has first been notified of the physician's intent to institute such an order, and reasonable attempts have been made to notify any other parent or legal guardian, provided such parent is reasonably available and has custodial or visitation rights. Such notification must be provided both orally and in writing to at least one (1) parent or legal guardian of the unemancipated minor patient unless, in the physician's reasonable medical judgment, the urgency of the decision requires reliance on only providing the information orally. Such notification must also include informing the parent or legal guardian of the forty-eight (48) hour provision in subsection (5) of this section. An order not to resuscitate, an order to withhold artificial life-sustaining procedures, an order to withhold artificial nutrition and hydration, or a similar physician's order shall not be instituted, either orally or in writ-

1 ing, until at least forty-eight (48) hours after oral and written notice have  
2 been provided to at least one (1) parent or legal guardian in accordance with  
3 this section. The provision of such notification must be contemporaneously  
4 recorded in the patient's medical record, specifying by whom and to whom the  
5 notification was given, the date and time of its provision, and whether it  
6 was provided in writing as well. When only one (1) parent or guardian has  
7 been notified, the nature of reasonable attempts to inform another parent or  
8 guardian, or the reason why such attempts were not made, must also be contem-  
9 poraneously recorded in the unemancipated minor patient's medical record.

10 (4) The requirements of subsection (3) of this section shall not ap-  
11 ply after seventy-two (72) hours of diligent efforts have been made by the  
12 health care provider, without success, to contact and notify at least one (1)  
13 known parent or legal guardian of the unemancipated minor patient of the in-  
14 tent to implement an order not to resuscitate, an order to withhold artifi-  
15 cial life-sustaining procedures, an order to withhold artificial nutrition  
16 and hydration, or a similar physician's order.

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

33 (6) If a transfer cannot be arranged within fifteen (15) days from the  
34 parent's or guardian's request to transfer, an order not to resuscitate, an  
35 order to withhold artificial life-sustaining procedures, an order to with-  
36 hold artificial nutrition and hydration, or a similar physician's order may  
37 be instituted.

38 (7) Upon the request of a parent or legal guardian of an unemancipated  
39 minor patient or resident of a hospital, health care facility, or nursing  
40 home or upon the request of a parent or legal guardian of an unemancipated  
41 minor prospective patient or prospective resident of a hospital, health  
42 care facility, or nursing home, a physician shall disclose in writing any  
43 policies or services the unemancipated minor may be subjected to or receive  
44 involving the provision or withholding of cardiopulmonary resuscitation,  
45 artificial life-sustaining procedures, and artificial nutrition and hydra-  
46 tion, including any policies related to treatments deemed nonbeneficial,  
47 ineffective, futile, or inappropriate, within the hospital, health care  
48 facility, or nursing home.

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