

SHB 1281 - S COMM AMD

By Committee on Human Services & Corrections

NOT ADOPTED 04/14/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) It is the intent of the legislature to  
4 assist children in the care of kin to access appropriate medical  
5 services. Children being raised by kin have faced barriers to medical  
6 care because their kinship caregivers have not been able to verify that  
7 they are the identified primary caregivers of these children. Such  
8 barriers pose an especially significant challenge to kinship caregivers  
9 in dealing with health professionals when children are left in their  
10 care.

11 (2) It is the intent of the legislature to assist kinship  
12 caregivers in accessing appropriate medical care to meet the needs of  
13 a child in their care by permitting such responsible adults who are  
14 providing care to a child to give informed consent to medical care.

15 **Sec. 2.** RCW 7.70.065 and 2003 c 283 s 29 are each amended to read  
16 as follows:

17 (1) Informed consent for health care for a patient who is not  
18 competent, as defined in RCW 11.88.010(1)(e), to consent may be  
19 obtained from a person authorized to consent on behalf of such patient.

20 (a) Persons authorized to provide informed consent to health care  
21 on behalf of a patient who is not competent to consent, based upon a  
22 reason other than incapacity as defined in RCW 11.88.010(1)(d), shall  
23 be a member of one of the following classes of persons in the following  
24 order of priority:

25 ~~((a))~~ (i) The appointed guardian of the patient, if any;

26 ~~((b))~~ (ii) The individual, if any, to whom the patient has given  
27 a durable power of attorney that encompasses the authority to make  
28 health care decisions;

29 ~~((c))~~ (iii) The patient's spouse;

1       ~~((d))~~ (iv) Children of the patient who are at least eighteen  
2 years of age;

3       ~~((e))~~ (v) Parents of the patient; and

4       ~~((f))~~ (vi) Adult brothers and sisters of the patient.

5       ~~((2))~~ (b) If the ~~((physician))~~ health care provider seeking  
6 informed consent for proposed health care of the patient who is not  
7 competent to consent under RCW 11.88.010(1)(e), other than a person  
8 determined to be incapacitated because he or she is under the age of  
9 majority and who is not otherwise authorized to provide informed  
10 consent, makes reasonable efforts to locate and secure authorization  
11 from a competent person in the first or succeeding class and finds no  
12 such person available, authorization may be given by any person in the  
13 next class in the order of descending priority. However, no person  
14 under this section may provide informed consent to health care:

15       ~~((a))~~ (i) If a person of higher priority under this section has  
16 refused to give such authorization; or

17       ~~((b))~~ (ii) If there are two or more individuals in the same class  
18 and the decision is not unanimous among all available members of that  
19 class.

20       ~~((3))~~ (c) Before any person authorized to provide informed  
21 consent on behalf of a patient not competent to consent under RCW  
22 11.88.010(1)(e), other than a person determined to be incapacitated  
23 because he or she is under the age of majority and who is not otherwise  
24 authorized to provide informed consent, exercises that authority, the  
25 person must first determine in good faith that that patient, if  
26 competent, would consent to the proposed health care. If such a  
27 determination cannot be made, the decision to consent to the proposed  
28 health care may be made only after determining that the proposed health  
29 care is in the patient's best interests.

30       (2) Informed consent for health care for a patient who is not  
31 competent, as defined in RCW 11.88.010(1)(e), because he or she is  
32 under the age of majority and who is not otherwise authorized to  
33 provide informed consent, may be obtained from a person authorized to  
34 consent on behalf of such a patient.

35       (a) Persons authorized to provide informed consent to health care  
36 on behalf of a patient who is incapacitated, as defined in RCW  
37 11.88.010(1)(e), because he or she is under the age of majority and who

1 is not otherwise authorized to provide informed consent, shall be a  
2 member of one of the following classes of persons in the following  
3 order of priority:

4 (i) The appointed guardian or legal custodian of the minor patient,  
5 if any;

6 (ii) A person authorized by the court to consent to medical care  
7 for a child in out-of-home placement pursuant to chapter 13.32A or  
8 13.34 RCW, if any;

9 (iii) Parents of the minor patient; and

10 (iv) A competent adult with an affidavit signed and dated under  
11 penalty of perjury pursuant to RCW 9A.72.085 representing himself or  
12 herself to be a relative responsible for the health care of such minor  
13 patient. Such authorization shall be effective for up to six months  
14 from the date of the affidavit.

15 (b) A health care provider may, but is not required to, rely on the  
16 representations of a person with an affidavit claiming to be a relative  
17 responsible for the care of the minor patient if the health care  
18 provider does not have actual notice of the falsity of any of the  
19 statements made by the person claiming to be responsible for the health  
20 care of the minor patient.

21 (c) A health care facility or a health care provider may, in its  
22 discretion, require additional documentation of a person's claimed  
23 status as being responsible for the health care of the minor patient.  
24 However, there is no obligation to require such additional  
25 documentation.

26 (d) The health care provider or health care facility where services  
27 are rendered shall be immune from suit in any action, civil or  
28 criminal, or from professional or other disciplinary action based on  
29 such reliance.

30 (3) For the purposes of this section, "health care provider" and  
31 "health care facility" shall be defined as established in RCW  
32 70.02.010."

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1        On page 1, line 4 of the title, after "minor;" strike the remainder  
2 of the title and insert "amending RCW 7.70.065; and creating a new  
3 section."

**--- END ---**