
HOUSE BILL 1281

State of Washington

59th Legislature

2005 Regular Session

By Representatives Pettigrew, Hinkle, Kagi, Walsh, Schual-Berke, McDonald, Clibborn, Dickerson, Dunn, P. Sullivan, Orcutt, Darneille, Morrell, Campbell, Wallace and Chase

Read first time 01/19/2005. Referred to Committee on Children & Family Services.

1 AN ACT Relating to adding to the list of persons who may give
2 informed consent to medical care for minors and providing immunity to
3 health care providers and facilities for reliance on the representation
4 of a person claiming to be responsible for the care of the minor;
5 amending RCW 7.70.065; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

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

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

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

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

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

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

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

20 ~~((2))~~ (b) If the ~~((physician))~~ health care provider seeking
21 informed consent for proposed health care of the patient who is not
22 competent to consent under RCW 11.88.010(1)(e), other than a person
23 determined to be incapacitated because he or she is under the age of
24 majority and who is not otherwise authorized to provide informed
25 consent, makes reasonable efforts to locate and secure authorization
26 from a competent person in the first or succeeding class and finds no
27 such person available, authorization may be given by any person in the
28 next class in the order of descending priority. However, no person
29 under this section may provide informed consent to health care:

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

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

35 ~~((3))~~ (c) Before any person authorized to provide informed
36 consent on behalf of a patient not competent to consent under RCW
37 11.88.010(1)(e), other than a person determined to be incapacitated
38 because he or she is under the age of majority and who is not otherwise

1 authorized to provide informed consent, exercises that authority, the
2 person must first determine in good faith that that patient, if
3 competent, would consent to the proposed health care. If such a
4 determination cannot be made, the decision to consent to the proposed
5 health care may be made only after determining that the proposed health
6 care is in the patient's best interests.

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

12 (a) Persons authorized to provide informed consent to health care
13 on behalf of a patient who is incapacitated, as defined in RCW
14 11.88.010(1)(e), because he or she is under the age of majority and who
15 is not otherwise authorized to provide informed consent, shall be a
16 member of one of the following classes of persons in the following
17 order of priority:

18 (i) The appointed guardian of the minor patient, if any;

19 (ii) Parents of the minor patient; and

20 (iii) A competent adult representing himself or herself to be
21 responsible for the health care of such minor patient.

22 (b) A health care provider may, but is not required to, rely on the
23 representations of a person claiming to be responsible for the care of
24 the minor patient if the health care provider does not have actual
25 notice of the falsity of any of the statements made by the person
26 claiming to be responsible for the health care of the minor patient.

27 (c) A health care facility or a health care provider may, in its
28 discretion, require documentation of a person's claimed status as being
29 responsible for the health care of the minor patient. However, there
30 is no obligation to require such documentation.

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

35 (3) For the purposes of this section, "health care provider" and
36 "health care facility" shall be defined as established in RCW

1 70.02.010.

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