

IN THE SENATE

SENATE BILL NO. 1354

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO HEALTH; AMENDING SECTION 16-2422, IDAHO CODE, TO CLARIFY PRO-
2 VISIONS REGARDING INFORMED CONSENT; AMENDING SECTION 16-2423, IDAHO
3 CODE, TO ESTABLISH PROVISIONS REGARDING ELECTROCONVULSIVE TREATMENT
4 FOR CHILDREN AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMER-
5 GENCY AND PROVIDING AN EFFECTIVE DATE.
6

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

8 SECTION 1. That Section 16-2422, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 16-2422. INFORMED CONSENT TO MEDICATION OR OTHER TREATMENT -- PERSONS
11 UNDER VOLUNTARY TREATMENT. (1) A facility may not administer any treatments
12 or medications to a child admitted to the facility as a voluntary patient un-
13 der section 16-2407, Idaho Code, unless the parent, guardian or custodian of
14 the child has given informed consent to the treatment, including electrocon-
15 vulsive therapy to children twelve (12) years of age and older, except that
16 emergency or medically necessary treatments may be given without informed
17 consent, if delay in treatment may cause harm to the child, and the parent,
18 guardian, or custodian of the child is not available.

19 (2) After informed consent has been given, the parent, guardian or
20 custodian of a child may revoke such consent at any time, by clearly communi-
21 cating such revocation to facility staff. When consent has been revoked, the
22 facility shall promptly discontinue the treatment, provided that a course
23 of treatment may be concluded or phased out where necessary to avoid the
24 harmful effects of abrupt withdrawal. The facility may require the parent,
25 guardian, or custodian to sign a written revocation of consent before dis-
26 continuing the treatment.

27 (3) Except in an emergency situation, the parents of a child being
28 treated voluntarily shall have the right to refuse any and all medications
29 or other treatments. If appropriate medications or treatments are refused,
30 and the facility is unable to care for the child without such treatments, the
31 facility may then discharge the child, with due care for his safety. Neither
32 the facility nor providers shall be held liable. If the child appears to
33 meet the criteria for involuntary treatment as specified in section 16-2418,
34 Idaho Code, the facility may file a petition for involuntary treatment.

35 SECTION 2. That Section 16-2423, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 16-2423. INFORMED CONSENT TO MEDICATION OR OTHER TREATMENT -- PERSONS
38 SUBJECT TO INVOLUNTARY OR EMERGENCY TREATMENT. (1) During an emergency eval-
39 uation under section 16-2413, Idaho Code, or during a period of involuntary
40 treatment ordered under section 16-2418, Idaho Code, the treatment facility

1 may administer necessary medications or other treatments, except for elec-
2 troconvulsive treatments, to a child, consistent with good medical practice
3 without the informed consent of the parent of the child, if it is not possible
4 to obtain such consent.

5 (2) Notwithstanding subsection (1) of this section, a treatment facil-
6 ity shall not administer experimental treatment or any other special therapy
7 except as provided by law or in rules promulgated by the department.

8 (3) No psychosurgery ~~or electroconvulsive~~ treatment shall be performed
9 on a child, except by order of a court upon a finding that the treatment is
10 necessary to prevent serious harm to the child. Consent of the parent of
11 a child to this treatment without a court order shall be invalid and shall
12 not be a defense against any legal action that might be brought against the
13 provider of the treatment.

14 (4) No electroconvulsive treatment shall be performed on a child under
15 twelve (12) years of age, except by order of a court upon a finding that the
16 treatment is necessary to prevent serious harm to the child. Consent of the
17 parent of a child under twelve (12) years of age to this treatment without
18 a court order shall be invalid and shall not be a defense against any legal
19 action that may be brought against the provider of the treatment. Informed
20 consent of a parent is required to perform electroconvulsive treatment on a
21 child twelve (12) years of age and older.

22 ~~(4)~~ (5) Consent for other medical ~~or~~ surgical treatments not intended
23 primarily to treat a child's serious emotional disturbance shall be obtained
24 in accordance with the applicable law.

25 SECTION 3. An emergency existing therefor, which emergency is hereby
26 declared to exist, this act shall be in full force and effect on and after
27 July 1, 2024.