

IN THE SENATE

SENATE BILL NO. 1354, As Amended, As Amended in the House

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO HEALTH; AMENDING SECTION 16-2422, IDAHO CODE, TO CLARIFY PROVISIONS REGARDING INFORMED CONSENT AND TO ESTABLISH PROVISIONS REGARDING CONDITIONS REQUIRED FOR ADMINISTRATION OF ELECTROCONVULSIVE THERAPY TO CHILDREN; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

16-2422. INFORMED CONSENT TO MEDICATION OR OTHER TREATMENT -- PERSONS UNDER VOLUNTARY TREATMENT. (1) A facility may not administer any treatments or medications to a child admitted to the facility as a voluntary patient under section 16-2407, Idaho Code, unless the parent, guardian or custodian of the child has given informed consent to the treatment, except that emergency or medically necessary treatments may be given without informed consent, if delay in treatment may cause harm to the child, and the parent, guardian, or custodian of the child is not available. Nothing in this subsection shall apply to electroconvulsive therapy.

(2) Electroconvulsive therapy may be administered to a child fourteen (14) years of age or older only if:

(a) There is informed consent by the parent, guardian, or custodian of the child and all reasonable attempts have been made to contact any non-custodial parent with all information regarding the proposed therapy;

(b) The child does not object to the procedure after being informed of the proposed therapy and alternatives;

(c) No parent, guardian, or custodian of the child objects to the proposed therapy;

(d) All other accepted methods of treatment have been exhausted; such treatment is necessary to save the child's life due to potential suicide; or such therapy is necessary to prevent irreparable injury resulting from conditions of self-harm, starvation, dehydration, or physical exhaustion bordering on serious collapse, to the extent that such condition is life threatening;

(e) The child has received thorough, independent psychiatric assessments by, and approval for the therapy from, two (2) separate American board of psychiatry-certified psychiatrists specializing in child and adolescent psychiatry, at least one (1) of whom shall demonstrate advanced certification in electroconvulsive therapy.

(f) The child is given a cognitive assessment that includes an assessment of memory, which shall be performed:

(i) Prior to administration of the therapy;

(ii) Immediately following termination of the therapy; and

1 (iii) Three (3) to six (6) months post administration of the ther-
2 apy; and

3 (g) The therapy is performed in a facility licensed as a hospital pur-
4 suant to chapter 13, title 39, Idaho Code.

5 ~~(2)~~ (3) After informed consent has been given, the parent, guardian or
6 custodian of a child may revoke such consent at any time, by clearly communi-
7 cating such revocation to facility staff. When consent has been revoked, the
8 facility shall promptly discontinue the treatment, provided that a course of
9 treatment, except for electroconvulsive therapy, may be concluded or phased
10 out where necessary to avoid the harmful effects of abrupt withdrawal. The
11 facility may require the parent, guardian, or custodian to sign a written re-
12 vocation of consent before discontinuing the treatment.

13 ~~(3)~~ (4) Except in an emergency situation, the parents of a child being
14 treated voluntarily shall have the right to refuse any and all medications or
15 other treatments, but electroconvulsive therapy shall never be administered
16 unless there is compliance with subsection (2) of this section. If appro-
17 priate medications or treatments are refused, and the facility is unable to
18 care for the child without such treatments, the facility may then discharge
19 the child, with due care for his safety. Neither the facility nor providers
20 shall be held liable. If the child appears to meet the criteria for involun-
21 tary treatment as specified in section 16-2418, Idaho Code, the facility may
22 file a petition for involuntary treatment.

23 SECTION 2. An emergency existing therefor, which emergency is hereby
24 declared to exist, this act shall be in full force and effect on and after
25 July 1, 2024.