

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL
ADMINISTRATION

May 4, 1993 Hearing Room 357 1:00 p.m. Tapes 96 - 99

MEMBERS PRESENT: Rep. Tom Brian, Chair Rep. Ken Baker Rep. Jim Edmunson
Rep. Tom Mason

STAFF PRESENT: Carole Souvenir, Committee Counsel Sarah May,
Committee Clerk

MEASURES CONSIDERED: SB 286 - Establishes Oregon Health Care
Decision Act

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These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in
quotation marks report a speaker's exact words. For complete contents
of the proceedings, please refer to the tapes. [--- Unable To Translate
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TAPE 96, SIDE A

003 CHAIR BRIAN: Calls the meeting to order at 1:13 P.M.

SB 286 - WORK SESSION

Witnesses: Tina Kitchin, Physician Miles Edwards, Physician at
Oregon Health Science University Teresa Allen, Nurse Bob Castagna,
Oregon Catholic Conference

011 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 286 Establishes Oregon
Health Care Decisions Act. Submits issues and proposed amendments
to SB

286.(EXHIBIT A) Summarizes Section 1.

030 REP. HAYDEN: What have you told us about line 6 & 7?

031 CAROLE SOUVENIR, COMMITTEE COUNSEL: It would not be within
definition of life sustaining procedure.

033 CAROLE SOUVENIR, COMMITTEE COUNSEL: That was discussed last
time, whether to have SB 286-5 or -6 amendments. Committee looked
at -6

amendments, that would reinstate the presumption under ORS 127. 580, but
question if artificial nutrition and hydration will be within the
definition. 039 REP. HAYDEN: If we are going to retain presumption in

line 5 & 6, put period after "function", and cross out balance of next two lines.

Meaning artificial nutrition and hydration would not be a medical life sustaining procedure. 047 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 286-6 amendments did not change definition of life sustaining procedure. Summarizes Section 1, Section 2, Section 3, Section 4.

080 CHAIR BRIAN: Did we take out word "substantially" by motion?

082 CAROLE SOUVENIR, COMMITTEE COUNSEL: We were going to come back to it for motions. Continues. Would ORS statute have to be copied exactly or

could there be differences in printing, or format, as long as exact language was used?

094 CAROLE SOUVENIR, COMMITTEE COUNSEL: Wherever the word "substantially" is used, it would be removed. Summarizes Section 5, Section 6, Section 7, Section 8.

135 CHAIR BRIAN: If to retain wording in Alzheimer Amendment, we should have language to tighten that?

138 CAROLE SOUVENIR, COMMITTEE COUNSEL: Yes. Summarizes Section 9.

143 CHAIR BRIAN: Top of Pg. 10, discuss permanent and severe pain?

146 CAROLE SOUVENIR, COMMITTEE COUNSEL: That was proposed amendment. Continues summary of Section 9.

167 REP. HAYDEN: Go back to Section 9, line 39, on Pg. 11. The deleted language that the attorney in fact can make decisions about nutrition

and hydration, in absences of declaration. Add ORS 127.580?

179 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 10, Section 11. Cites five certain conditions that have to be met.

215 REP. HAYDEN: Consider deletion of lines 26-30.

220 CAROLE SOUVENIR, COMMITTEE COUNSEL: Continues summary.

229 CHAIR BRIAN: One of those four has to be present in order to satisfy the number 2 condition?

230 CAROLE SOUVENIR, COMMITTEE COUNSEL: Continues with summary of conditions. Section 11-2. If you are health care provider, and

attending physician did not confer, or try to determine desires of principal, arguable they did not comply with all the conditions in

Sub-section 1. Failure to do this does not mean that you are immune.

297 CHAIR BRIAN: If you do these five things you are immune, and also immune if you don't?

306 REP. HAYDEN: Is it necessary to comply with all the provisions? Pg. 13, line 20, if one conditions is met.

312 CHAIR BRIAN: One of the conditions is set forth on lines 21-35.

314 REP. HAYDEN: Limited to that? One condition is limited to lines 21-35.

316 CHAIR BRIAN: If comply with one item between lines 21-35, then comply with subsection-b, and still have to comply with subsections-c,d, and e.

322 REP. HAYDEN: Have to comply with subsections-a,b,c? Subsection-c is through what line?

326 CAROLE SOUVENIR, COMMITTEE COUNSEL: Beginning on Pg. 13, line 36, through line 3, Pg. 14.

332 CHAIR BRIAN: Subsection-d covers through line 4-12.

334 CAROLE SOUVENIR, COMMITTEE COUNSEL: Subsection-e is the last one. Is proposal in list of issues dealing with this section?

338 CHAIR BRIAN: Pg.14, line 19, if complied there is immunity, but don't have to comply, and may not be immune.

348 REP. EDMUNSON: Suggests that means that there is no strict liability if don't comply with all conditions. Failure to comply doesn't make you

automatically liable.

368 CAROLE SOUVENIR, COMMITTEE COUNSEL: Section 11-A, referred to as "comfort section".

382 REP. HAYDEN: Line 26, what would "reasonable efforts" be?

390 CHAIR BRIAN: "Reasonable efforts" orally means, with spoon, etc?

396 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 12.

415 CHAIR BRIAN: Does it say when it's effective?

417 CAROLE SOUVENIR, COMMITTEE COUNSEL: Effective upon communication by principal to physician or health care provider.

423 CHAIR BRIAN: Pg. 14, line 36, reinstatement may be at any time in any manner?

426 CAROLE SOUVENIR, COMMITTEE COUNSEL: Principal doesn't have to be capable, as capable is defined. Without regard to mental or physical

condition of principal. Cannot be revoked unless you are capable.

432 CHAIR BRIAN: If a person is delirious, it revokes it when of clear mind, but if delirious and health care representative believes there is an intent to reinstate?

439 CAROLE SOUVENIR, COMMITTEE COUNSEL: Pg. 14, lines 35-36, language says that once suspended it, can be reinstated at any time, in any matter, by which the principal is capable of communicating the intent to reinstate. If revoked while you were capable, couldn't be reinstated if incapable.

TAPE 97, SIDE A

008 CHAIR BRIAN: What's the difference between suspension and reinstatement of suspension, versus a revocation and a reinstatement of revocation?

011 CAROLE SOUVENIR, COMMITTEE COUNSEL: Intent is, if incapable and wanted to suspend advanced directive, regarding nutrition and hydration, you

could do that while incapable. But couldn't revoke permanently while incapable.

016 REP. MASON: Delirious, can only suspend advanced directive for awhile. What is the purpose?

024 REP. EDMUNSON: Reinstatement when able to communicate intent, or able to form intent, without regard to mental condition. Can form intent,

unless under mental duress, possibly pressured into something.

039 REP. HAYDEN: Where would be the criteria for absolute outright revocation of these?

042 REP. HAYDEN: Where is that within law? Is there another body of law somewhere that you can revoke?

044 CAROLE SOUVENIR, COMMITTEE COUNSEL: On Pg. 14, line 39.

045 REP. MASON: Once its revoked, how do you get it back?

046 CAROLE SOUVENIR, COMMITTEE COUNSEL: Not provided in this part of statute, execute another advanced directive.

047 REP. MASON: Can suspend, line 33-38. May be reinstated, by which principal is able to communicate. Can reinstate no matter what mental

condition your in?

078 REP. EDMUNSON: Section 12, comparing to existing law adds concepts of suspension, and reinstatement, where before simply revocation? Now

created new dynamic, once revoked, allowing a new interim.

095 REP. HAYDEN: A person can be a viable human organism, and

not be legally competent. If not legally competent would that have been

revocation of her advanced directive? Would struggle be an indication that she was revoking her directive although capable of revoking it?

104 CAROLE SOUVENIR, COMMITTEE COUNSEL: Incapable is defined.

106 REP. EDMUNSON: Competence is ability to form intent. Implies that one must be competent. If delirious, couldn't form any sound or writing,

couldn't interpret as communication, if intent couldn't be formed.

124 REP. HAYDEN: Would it make more sense to decide philosophical view, and have bill redrafted starting with current law and adding things?

131 REP. EDMUNSON: Most ideas we can agree on and conceptually, deal with that. Rephrasing and putting in words that should have been chosen in

first place.

143 CAROLE SOUVENIR, COMMITTEE COUNSEL: Continues summary of Section 12.

166 REP. EDMUNSON: What about Organ donors?

169 CAROLE SOUVENIR, COMMITTEE COUNSEL: No, unless you deal with that in the advanced directive.

170 REP. MASON: The power of health care attorney supersedes the power of a guardian? Once health care representative is appointed, one can't

appoint a guardian over the top?

176 CAROLE SOUVENIR, COMMITTEE COUNSEL: This is setting out time line. If you have a guardian after that time you appoint an attorney, in fact,

that would supersede the guardian. It would also supersede any prior appointment or designation of health care representative.

183 REP. EDMUNSON: Where in notice of advanced directory does it explain that?

186 CAROLE SOUVENIR, COMMITTEE COUNSEL: The instructions about appointing a health care representative, Pg. 6, Section 8.

190 REP. EDMUNSON: It doesn't say that this health care authority would be greater than any guardian or person appointed by court. Would a person

have guardian at time of making the advanced directory?

207 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 13,

Section 14.

269 REP. MASON: Is there any place in this bill that criminal law applies?

276 CHAIR BRIAN: Pg. 17, Lines 33-36, there is deletion of conscious clause. Physician can notify attorney that they were unable or

unwilling to carry out wishes? Health care representative could give directive based upon a directive, and if health care facility was unable to carry out wishes, could transfer to another person?

292 CAROLE SOUVENIR, COMMITTEE COUNSEL: On Pg. 20, Section 15, line 2.

298 REP. HAYDEN: Some institutions might not want to be compelled to transfer the patient into that situation, but would rather discharge

patient. Leaving health care provider to own conscious.

304 CAROLE SOUVENIR, COMMITTEE COUNSEL: Covered on Pg. 20, Lines 12-14. Raised by Oregon Catholic Conference.

308 REP. HAYDEN: This doesn't talk about discharge provision there?

311 REP. EDMUNSON: Pg. 17, Line 22, about part that grants immunity to provider, if does not act, is not subject to liability or discipline,

unless provider fails to do duty that statute places on provider. Line 14, withholding life sustaining procedures is not unlawful by reason of failure to satisfy conditions.

332 REP. MASON: Suggests picking out what we like and starting over.

339 REP. EDMUNSON: If they decline to act, are not liable, unless fail to satisfy duty. What is act they decline to do, in reliance in health

care decision, made in advanced directive? Any situation where would not have duty to follow a health care decision made in advanced directive?

347 REP. MASON: Combine conscious clause with what you just mentioned, and combine with all immunities, how can you compel anyone to do anything?

363 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 15.

368 REP. MASON: Line 7-8, any right a capable person may have to consent or withhold consent to health care administered. In good faith pursuant to religious tenants or individual requiring health care.

386 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 16,
Section 17.

416 REP. HAYDEN: No matter what law says, it is euthanasia.

431 REP. MASON: Idea of letting natural process of dying take place.

TAPE 96, SIDE B

025 REP. EDMUNSON: No matter what we do, nature is taking it's
course.

032 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 18.

038 REP. BAKER: Actual notice, on Line 7?

044 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 19.

059 REP. MASON: Felony is what?

060 CAROLE SOUVENIR, COMMITTEE COUNSEL: The intent and effect of
causing withdrawal or withholding of life sustaining procedures or
artificially nutrition and hydration. The misdemeanor, if has intent
or effect of

affecting a health care decision.

063 CHAIR BRIAN: Couldn't they be the same?

064 CAROLE SOUVENIR, COMMITTEE COUNSEL: Yes, but ...

073 CHAIR BRIAN: If conceal reinstatement, the reinstatement says, "I
want to die", and person conceals it so that principal has to live,
would be a class A felony.

078 CAROLE SOUVENIR, COMMITTEE COUNSEL: Has to hasten the death
of the principal, if they live, wouldn't fall within statute.

081 REP. HAYDEN: This is saying it will hasten death, everywhere
else in the bill it is referring to natural process, this is current
law.

085 CAROLE SOUVENIR, COMMITTEE COUNSEL: What's hastening the
death is concealing or destroying instrument, not withdrawal of life
support.

089 CHAIR BRIAN: How can concealing a piece of paper hasten a death?

090 REP. HAYDEN: Because it says, with the effect of causing
and withholding. So concealing a paper has effect of with holding.

095 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 20, 21.

136 REP. BAKER: Have seen this language before, will that be deleted
also?

139 CAROLE SOUVENIR, COMMITTEE COUNSEL: Pg. 14, line 2-3.

152 CHAIR BRIAN: If a specialist is not reasonably available, then any other medical conformation?

155 CAROLE SOUVENIR, COMMITTEE COUNSEL: There has to be medical conformation of the condition.

157 REP. HAYDEN: It's medically confirmed by care giver, at least one physician, then neurologist, possibly two people involved.

161 CAROLE SOUVENIR, COMMITTEE COUNSEL: If the condition is permanently unconscious, that's correct.

164 REP. HAYDEN: If in terminal condition, only requires one doctor, to make unanimous decision.

170 REP. EDMUNSON: Before law required terminal condition, and the person may be comatose, and not reasonably possible that they would regain

consciousness.

190 CAROLE SOUVENIR, COMMITTEE COUNSEL: Refers to Section 21, line 35.

215 REP. MASON: Why is the guardian before everyone, including the spouse?

217 REP. BAKER: That's the court appointed guardian.

220 REP. MASON: Only one person can go to court.

222 CAROLE SOUVENIR, COMMITTEE COUNSEL: There will be an amendment to that section.

223 REP. MASON: Once that one person goes to court, that is it, if they are appointed guardian. 231 REP. HAYDEN: Can a person have more than one guardian?

234 REP. EDMUNSON: Do they have to contact all of the people in descending order. Shouldn't we require that they be capable themselves of making

decisions?

242 CAROLE SOUVENIR, COMMITTEE COUNSEL: Person couldn't make decision unless competent.

244 REP. BAKER: Pg. 1, line 10, a person only has to be 18 years of age.

252 REP. HAYDEN: Might want to put "competent", after guardian or health care representative.

254 REP. EDMUNSON: One person may be objecting.

262 CHAIR BRIAN: Anyone can stop the appointment, then what happens?

263 CAROLE SOUVENIR, COMMITTEE COUNSEL: If can't have committee approach, then spouse, then majority of adult children, or either parent of

principal, then majority of adult siblings, or any adult relative or friend that is close to the principal.

271 REP. EDMUNSON: If majority of adult children cannot agree on the committee approach, then it goes to spouse who is grieving and cannot

make decision, there is no out. Can they decline that?

281 REP. BAKER: It says that you can waive the decision.

284 REP. EDMUNSON: It says if no one is available. Does that mean available and willing, available and able?

287 REP. BAKER: Can disclaim anything.

293 CAROLE SOUVENIR, COMMITTEE COUNSEL: Keep going down list until find someone available, then get to subsection 3. If no one on this list,

then life sustaining procedures can be withheld or withdrawn upon direction and supervision of the attending physician, after consultation with ethics committee.

304 REP. MASON: The principal spouse only has right to make an affirmative decision. If spouse says no, then do you just go to the next person?

319 REP. BAKER: If spouse wants all procedures available to be directed toward spouse?

333 REP. HAYDEN: Line 18, (page # unknown) insert word "supply", health care representative may be withheld, supplied, or withdrawn in

accordance?

343 CAROLE SOUVENIR, COMMITTEE COUNSEL: Can add another sentence to make it clearer. If in order of priority the first person makes decision, not

to withhold life sustaining procedures, then that decision would govern.

358 CHAIR BRIAN: Concerned about "friends", line 41, Pg. 20. It requires both family and friends. Should have close family, and if not available close friends.

383 REP. MASON: How does this go back to section 5? Could friend also be heir?

406 REP. BAKER: Pg. 5, line 32, can disqualify any other person.

412 REP. EDMUNSON: You could write into the principal directive that some people cannot make decisions.

423 CAROLE SOUVENIR, COMMITTEE COUNSEL: Friend could be someone named in principal's will.

425 REP. MASON: The person making decision should have no financial interest.

456 REP. HAYDEN: Could someone file as a friend who possibly isn't?

464 CHAIR BRIAN: One person who could file legal action, is adult relative or friend of principal.

TAPE 97, SIDE B

017 REP. HAYDEN: What is the legal definition of a friend?

019 CAROLE SOUVENIR, COMMITTEE COUNSEL: Pg. 21, under Section 2-G, lines 7-9, friend has to be close to principal as evident as frequent contact of principal.

021 CHAIR BRIAN: This puts the physician or facility in the position of believing that the person is a friend.

033 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes Section 22.

039 REP. MASON: We still don't have definition of ethics committee, patient advocate, or ethics consultant. Who could be the patient advocate or

ethics consultant?

056 REP. EDMUNSON: What medical confirmations are required by section 11-1 A? Is there some reason that we're not including medical conformations

in Section C?

069 CAROLE SOUVENIR, COMMITTEE COUNSEL: There has to be an issue whether the principal is incapable, then there has to be a conformation that

principal is incapable. Line 25. Making sure conformations have been made for someone who doesn't have health care representative, or an applicable advanced directive.

087 REP. EDMUNSON: Not clear, questions Section 11-1 A. Requires determination of capacity. 093 CAROLE SOUVENIR, COMMITTEE COUNSEL: If compare Pg. 13, line 36, the principal has to be under section 11. Explains conditions. Summarizes

Section 23, Section 24, Section 25, Section 26. 133 REP. EDMUNSON: Should word "adults" should be used instead of "individuals 18 years or older"?

135 CAROLE SOUVENIR, COMMITTEE COUNSEL: Adult is defined now. Advanced directive is now defined.

145 CAROLE SOUVENIR, COMMITTEE COUNSEL: Is proposal to extend the sunset for additional two years? The bill now repeals the sunset provision.

149 REP. HAYDEN: Where does it say that is has to be on the front of the provision?

150 CAROLE SOUVENIR, COMMITTEE COUNSEL: Amendment is coming. Summarizes Section 27, Section 29.

172 CHAIR BRIAN: Would Pg. 23, line 40, delete ORS 127.580?

173 CAROLE SOUVENIR, COMMITTEE COUNSEL: If committee adopts SB 286 -6 amendments, then it would amend ORS 127.580.

191 CAROLE SOUVENIR, COMMITTEE COUNSEL: Correction, medical conformation is defined on Pg. 3, line 10.

209 REP. HAYDEN: Then couldn't have medical conformation in absence of neurological specialist, unless called in another doctor?

211 CAROLE SOUVENIR, COMMITTEE COUNSEL: Correct, as long as it's clear that neurological specialist was not reasonably available. Would need second physician.

250 CAROLE SOUVENIR, COMMITTEE COUNSEL: Reviews SB 286-6 amendments.

317 REP. BAKER: If presumption is left in, it won't kill bill.

323 REP. EDMUNSON: I'm not prepared to support this bill because of Section 11. We need to deal with life support issue.

343 CAROLE SOUVENIR, COMMITTEE COUNSEL: Summarizes SB 286-6 amendments, would reinstate ORS 127.580 with amendments.

365 CHAIR BRIAN: Line 15-19, is there a presumption of consent to receive nutrition and hydration, except - starting with line 20?

369 CAROLE SOUVENIR, COMMITTEE COUNSEL: Correct. Continues.

372 REP. EDMUNSON: "Or otherwise", what does that mean?

373 CAROLE SOUVENIR, COMMITTEE COUNSEL: If person told his/her spouse.

375 REP. BAKER: Or a will. 376 CAROLE SOUVENIR, COMMITTEE COUNSEL: It would have to be clearly and specifically.

378 REP. MASON: Uncomfortable with "or otherwise".

387 CAROLE SOUVENIR, COMMITTEE COUNSEL: Continues summary of amendments.

407 REP. MASON: New language, why was it added?

410 CAROLE SOUVENIR, COMMITTEE COUNSEL: Nutrition and hydration would have been refused, not generally, but in that specific situation.

419 REP. MASON: What was wrong with the old language?

421 CAROLE SOUVENIR, COMMITTEE COUNSEL: That language was added to make it clear. Under what circumstances nutrition and hydration would be

withheld.

434 REP. MASON: A person makes an advanced directive, and then you're referring to the situation that will exist at the time that any life

sustaining decision is made.

444 CAROLE SOUVENIR, COMMITTEE COUNSEL: If person does not specifically state that they would refuse nutrition and hydration, in that

circumstance, then it's presumed that they consent.

TAPE 98, SIDE A

012 REP. MASON: As the old language that the person capable of making the decision as an adult specifically stated, the principal would have

refused artificially administered nutrition and hydration.

015 CAROLE SOUVENIR, COMMITTEE COUNSEL: Nutrition and hydration is defined.

017 CHAIR BRIAN: In an advanced directive, nutrition and hydration is defined. The presumption would be overridden which indicates certain

courses of action with regard to nutrition and hydration, under certain circumstances. If they've done advanced directive they should have a form that states what has happened. After word "hydration" insert, "as specified in advanced directive"?

038 REP. MASON: Line 18, what is "hyper elimination"?

039 CAROLE SOUVENIR, COMMITTEE COUNSEL: I.V.'s

043 TINA KITCHIN, PHYSICIAN WITH DD SERVICES: Food via I.V. is an intense medical procedure with high risks.

050 REP. HAYDEN: Does it usually involve a cut down, or is it a large needle?

051 KITCHIN: In newer methods, you can do it through peripheral access, the traditional way through a semi-surgical procedure.

054 REP. MASON: Why was it eliminated in the original law?

056 MILES EDWARDS, PHYSICIAN AT OREGON HEALTH SCIENCE UNIVERSITY: Usually the lines can only last four or five days. The prolonged

administrations have to be done by medical procedure where they tunnel a distance to prevent infection.

064 CHAIR BRIAN: That would be a procedure that would not be

presumed to have to give consent for?

065 EDWARDS: It is a major medical procedure, usually more for medications than for artificially administered nutrition and hydration.

075 REP. MASON: Why would it eliminate it?

076 CHAIR BRIAN: It is a more invasive procedure and not in presumption, it's not just nutrition and hydration, it's a special procedure.

083 REP. MASON: Why does a technical term appear in the statute?

089 KITCHIN: It makes a presumption that someone would consent to this. This is saying that the presumption doesn't exist, but you need to get

consent if going to have hyperalimentation. If someone agrees to a catheter, they agree to a fairly specific procedure. This needs to have consent rather than just having a presumption in law to it.

103 REP. BAKER: There is a distinction between nasal gastric tube feedings as opposed to major surgical procedures.

107 REP. HAYDEN: Is a gastrostomy tube easier?

109 EDWARDS: I think a gastrostomy tube is easier than a catheter. It has complications, but seems to be more comfortable than a nasal tube.

127 TERESA ALLEN, NURSE AT SALEM HOSPITAL: The question isn't on how it's done, but nutrition in them to sustain life. Artificially administered

nutrition and hydration is basic I.V. Hyperalimentation is loaded with calories to keep someone alive. Difference is in food, and not procedure.

141 CHAIR BRIAN: Procedure can be the same either way?

142 ALLEN: Procedures are different, so is food.

143 BOB CASTAGNA, OREGON CATHOLIC CONFERENCE: When language was originally proposed, a distinction was intended because of the nature of surgical

procedures involved. We didn't want to presume that given the degree of surgery involved, hyperalimentation would be consented to. The current presumption statute was originally stated that way to include verbal as well as if indicated in advanced directive. It has tightened the grounds for overcoming the presumption to require it be written in advanced directive. By eliminating the language stated from the current

language, we may have eliminated the ability to overcome the presumption with the verbal statement.

186 CHAIR BRIAN: In the SB 286-6 amendments, Pg. 2, does C take care of advanced directive? Or is that specific to health care representative?

193 CASTAGNA: The person may or may not have predicted the situation that exists of time that an advanced directive is to be followed.

204 CHAIR BRIAN: Would inserting a period after "hydration" in line 22 of SB 286-6 work? What about "or otherwise"?

209 CASTAGNA: It means verbally or in conversation.

217 CHAIR BRIAN: SB 286-6, line 18, it says, "except in one or more of following circumstance." Does this include line 21, "or verbally".

223 REP. MASON: In a fraud statute, property and employment are required to be in writing. But for some reason, you want to do this verbally.

251 CHAIR BRIAN: In line 22 of bill, page unknown, insert period (.), after word "hydration" and delete the rest of line 22,23,24.

259 CAROLE SOUVENIR, COMMITTEE COUNSEL: Continues summary of SB 286 -6 amendments.

268 CHAIR BRIAN: Not going to provide nutrition and hydration if makes someone suffer for a long period of time.

284 REP. BAKER: Why are we eliminating lines 5-6 of the Senate bill?

286 CAROLE SOUVENIR, COMMITTEE COUNSEL: Continues summary of -6 amendments. Defines "permanently unconscious".

326 REP. MASON: It will cost some individuals their lives. Sacrifice that needs to be made is a societal sacrifice. In exchange for that

societal benefit of other people living, we have people who are long term unconscious.

366 REP. HAYDEN: Within the first 2 years, don't 50% recover?

372 EDWARDS: With persistence vegetative state, it can reverse. How they got into this state is important. If it's due to cessation of blood

flow to brain, for 10-15 minutes, the higher centers of brain are gone. In those situations, after 3 months, there are essentially no people

that recover. Medically there are different kinds of comas. Some can have medical certainty of recovery.

422 EDWARDS: It depends on how it happen. There are situations of comas for other reasons. Ways to tell apart: 1) how it happened 2) if

scan

shows some brain there, could recover. TAPE 99, SIDE A

005 REP. EDMUNSON: The proposed language in this bill, uses "permanently unconscious". Current law uses - "comatose". Is "permanently

unconscious" specific enough to distinguish between the types of comas?

013 EDWARDS: Persistent vegetative state is very unique situation. Explains parts of brain. Window of time between 10-15 minutes, of

cessation of blood flow to the brain which causes higher centers to be damaged. There can be a recovery, sometimes are technically alive but in a state which they sleep and wake, but nothing else is there.

034 REP. EDMUNSON: Does "permanently unconscious" give any guidance?

035 EDWARDS: That would go with "persistent vegetative state". Could or couldn't be unconscious though.

039 REP. EDMUNSON: What about cognitive state?

041 EDWARDS: Talking about the person's ability to feel, think, experience.

045 REP. EDMUNSON: Is there a third category we might use instead?

046 EDWARDS: Likes "persistent vegetative state". Hard to tell if that is consciousness or not.

058 REP. EDMUNSON: Is there a persistent vegetative state caused by something other than an anoxic insult?

060 EDWARDS: Some are designated as having no chance of recovery. There are states where people get vegetative but don't have loss of brain

anatomically.

070 CHAIR BRIAN: Be more specific, whether is "permanently unconscious", or if other condition persist.

075 EDWARDS: Term "persistent and permanent with medical certainty", is fine.

080 CHAIR BRIAN: Is there a time that if condition exists, and has existed, might eliminate possibility that they will come back?

085 EDWARDS: Have said 3 months, now we are saying that there is virtual certainty in 4 weeks. 093 CHAIR BRIAN: Are there situations that a "persistent" state is sometimes let go for a certain period of time, for the families sake?

097 EDWARDS: Yes.

106 CHAIR BRIAN: Should we set minimum time for recovery? Might have situation geographically where a neurologist might not be available that a local physician might be making the decision? 113 EDWARDS: Would be wrong to go with less than neurological specialist.

120 CHAIR BRIAN: If withdrawing nutrition and hydration, there is time to contact a specialist.

121 EDWARDS: You can move someone and get the things you need.

124 CHAIR BRIAN: Not matter of urgency, but to withdraw life support or not. But because it's not geographically convenient, should we

authorize it?

129 REP. EDMUNSON: Why do we need this condition?

134 REP. HAYDEN: You said you were fairly sure after three weeks they would never recover, but some cases awoke after six years?

138 EDWARDS: It's how it happens that is important.

159 REP. MASON: This might be acceptable by looking at diagnosis that there is no brain.

165 EDWARDS: If neurologists knew how it happened they can make a determination based on knowledge of the diagnosis of the situation. An

anoxia insult to brain is that brain is irreversibly damaged, can tell by time.

189 CHAIR BRIAN: We can amend the definition of "permanently unconscious" on pg. 1 of bill, so that it would be a more specific reference.

195 REP. EDMUNSON: Will CAT scan establish there has been anoxia insult?

198 EDWARDS: That takes longer over a period of time, the scan will show changes. The anoxic insult is usually known by nature of what happened.

212 REP. EDMUNSON: In cases where it is not obvious, would scan be able to establish what happened? If brain damaged is caused by anoxia

insult, and if had history, could you determine that through technology?

220 EDWARDS: It might be later than if you knew what led into it.

222 REP. EDMUNSON: That negates putting a time line on it.

223 EDWARDS: It might, leave that up to the neurological specialist, who would be aware of these things.

226 REP. EDMUNSON: Might be able to determine it in less than a week?

227 EDWARDS: Need to give it a four week minimum, but some period of time, chances of recovery drop off with longer periods of time.

242 REP. EDMUNSON: Reviews proposed amendments. A-engrossed bill on Section 1, Pg. 3, line 4-9, sub-section 16 of the bill proposes to

restore original definition. Page 4, line 9-22 sub-section 3,4,5.

Issue of suspension. A deletion of all of those.

276 REP. EDMUNSON: Wishes to delete the following: page 11, Section 9; page 12 Section 10; page 13, Section 11; page 14, Section 11-A, 14, 15; pages 16-17, Section 14; pg. 19, Section 18 19; pages 19-20, Sections

20,21,22. Wishes to restore the following language: page 16, lines 34-43.

323 REP. EDMUNSON: Section 30, line 41, Pg. 23, not repealing?

334 REP. MASON: Has proposed amendment that he would like to be in also, about reporting of withdrawal of nutrition and hydration.

374 REP. HAYDEN: Could you address the concern that in a certain scenario, some doctors might not elect to put a feeding tube in, so that wouldn't have to take out?

378 REP. MASON: Not putting the tube in would subject them to liability.

390 CHAIR BRIAN: Adjourns the meeting at 4:35 P.M.

Submitted by:

Reviewed by:

Sarah May
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed Amendments to SB 286 - Committee Counsel - 9 pages

