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Legislative Impact Statement

To: Senator Murray, Chair
From: Elisabeth Hubbard, Executive Secretary
Re: 26 Senate 2114 AN ACT RELATING TO HEALTH AND SAFETY – CONSENT TO MEDICAL AND SURGICAL CARE

Tuesday, April 28, 2026

The Governor's Commission on Disabilities' Legislation Committee has developed a Legislative Impact Statement on the bill listed below. Please contact me (462-0110) for additional information.

Legislation Committee finds this bill Harmful unless amended.

The Legislation Committee finds subsection (a) of the bill to be beneficial, but subsections (b) and (c) harmful.

Subsection (a) requires that a patient recommended for hospice services has the right to have a caregiver present when hospice services are explained. We find this beneficial as it can be of great assistance to the patient, although we would suggest changing the language from "caregiver" to "patient-designated support person". The definition of caregiver in 23-17.71-1 refers to the person who is providing medical care, which is not necessarily the same individual whom the patient wants to include in medical decisions. In addition to providing emotional support, a support person can help a patient understand their options, discuss options with the patient, and help communicate the patient's wishes.

Sections (b) and (c), however, threaten a patient's rights to privacy, autonomy, and dignity. An individual should have the right to discuss their healthcare decisions, including hospice care services, in private. To compel another person to be part of the conversation or to compel the provider to release healthcare records to the caregiver is a violation of this right to privacy and likely of the Health Insurance Portability and Accountability Act (HIPPA). In addition, it infringes on an individual's autonomy to make their own health care decisions. The mere presence of another person in the conversation will change the nature of it, especially for someone in a vulnerable situation.

A better solution to this concern already exists in statute- Supported Decision Making. Supported Decision Making (R.I.G.L. 42-66.13-2(a) allows an individual to appoint a support person to assist them in making decisions. A supporter can:

- "Provide assistance in gathering and assessing information, making informed decisions, and communicating decisions for adults who would benefit from decision-making assistance."
- "Give supporters legal status to be with the adult and participate in discussions with others when the adult is making decisions or attempting to obtain information."
- "Enable supporters to assist in making and communicating decisions for the adult but not substitute as the decision maker for that adult."

With a supported decision-making agreement, an individual can decide who can be part of the conversation about their medical care and who can see their records. They can also receive assistance researching and understanding the decision, and receive help from the supporter in making their needs known.

We understand that some individuals would prefer that a support person be present and that their health care records be shared with that person, but that should be a decision made by the individual, not by statute. Supported Decision Making allows for that support to be present and legally protected, but preserves an individuals autonomy and ability to make their own decisions. We suggest that the bill instead require that the provider include the support person and provide records when this is requested by the patient.

cc: Senator LaMounain

Rico Vota, Governor's Office of Legislative Affairs