

**MINUTES OF THE SENATE HEALTH AND HUMAN SERVICES  
STANDING COMMITTEE  
THURSDAY, JANUARY 29, 2009  
ROOM 250 STATE CAPITOL**

Members Present:            Sen. D. Chris Buttars, Chair  
                                      Sen. Allen M. Christensen  
                                      Sen. David Hinkins  
                                      Sen. Pat Jones  
                                      Sen. Luz Robles

Member Excused:            Sen. Greg Bell

Staff Present:                Mark D. Andrews, Policy Analyst  
                                      Cami Deavila, Committee Secretary

Public Speakers Present:    Maureen Henry, Utah Commission on Aging  
                                      Lora Mengucci, Citizen  
                                      Charlie Thronson, Utah Association of Justice  
                                      Michelle McOmer, Utah Medical Association  
                                      Kelly Atkinson, Utah Health Insurance Association  
                                      Mike Weibel, Utah Medical Reserve Corps

A list of visitors and a copy of handouts are filed with the committee minutes.

Sen. Buttars called the meeting to order at 8:20 a.m.

1. SB0087, Preferred Drug List Revisions (A. Christensen)

S.B. 87 was not considered.

2. SB0117, Advance Health Care Directive Act Amendments (A. Christensen)

Sen. Christensen introduced the bill.

Ms. Henry spoke for the bill.

Ms. Mengucci spoke against the bill.

**MOTION:** Sen. Christensen moved to amend S.B. 117, Advance Health Care Directive Act Amendments, as follows:



Minutes of the Senate Health and Human Services Standing Committee

January 29, 2008

Page 3

103 (a) means a decision about an adult's health care made by, or on behalf of, an adult,  
104 that

104 is communicated to a health care provider;

105 (b) includes:

106 (i) selection and discharge of a health care provider and a health care facility;

107 (ii) approval or disapproval of diagnostic tests, procedures, programs of medication,  
108 and orders not to resuscitate; and

109 (iii) directions to provide, withhold, or withdraw artificial nutrition and hydration  
and

110 all other forms of health care; and

111 (c) does not include decisions about an adult's financial affairs or social interactions  
112 other than as indirectly affected by the health care decision.

113 ~~{+}~~ (13) ~~{+}~~ ~~{-14-}~~ "Health care decision making capacity" means an  
adult's ability to make an

114 informed decision about receiving or refusing health care, including:

115 (a) the ability to understand the nature, extent, or probable consequences of health  
116 status and health care alternatives;

117 (b) the ability to make a rational evaluation of the burdens, risks, benefits, and  
118 alternatives of accepting or rejecting health care; and

119 (c) the ability to communicate a decision.

120 ~~{+}~~ (14) ~~{+}~~ ~~{-15-}~~ "Health care facility" means:

121 (a) a health care facility as defined in Title 26, Chapter 21, Health Care Facility  
122 Licensing and Inspection Act; and

123 (b) private offices of physicians, dentists, and other health care providers licensed to  
124 provide health care under Title 58, Occupations and Professions.

125 ~~{+}~~ (15) ~~{+}~~ ~~{-16-}~~ "Health care provider" is as defined in Section  
78B-3-403, except that it

126 does not include an emergency medical services provider.

127 ~~{+}~~ (16) ~~{+}~~ ~~{-17-}~~ (a) "Life sustaining care" means any medical  
intervention, including

128 procedures, administration of medication, or use of a medical device, that maintains life by  
129 sustaining, restoring, or supplanting a vital function.

130 (b) "Life sustaining care" does not include care provided for the purpose of keeping a  
131 person comfortable.

132 ~~{+}~~ (17) ~~{+}~~ ~~{-18-}~~ "Life with dignity order" means an order,  
designated by the Department of

133 Health under Section 75-2a-106(5)(a), that gives direction to health care providers, health

care

134 facilities, and emergency medical services providers regarding the specific health care  
135 decisions of the person to whom the order relates.

136 ~~{+}~~ (18) {+} ~~{-19}~~ "Minor" means a person who:

137 (a) is under 18 years of age; and

138 (b) is not an emancipated minor.

139 ~~{+}~~ (19) {+} ~~{-20}~~ "Physician" means a physician and surgeon or  
osteopathic surgeon licensed

140 under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic  
141 Medical Practice Act.

142 ~~{-21}~~ (20) "Physician assistant" means a person licensed as a physician  
assistant under Title

143 58, Chapter 70a, Physician Assistant Act.

144 ~~{-22}~~ (21) "Psychologist" means a person licensed as a psychologist under  
Title 58, Chapter

145 61, Psychologist Licensing Act.

146 ~~{-20}~~ ~~{-23}~~ (22) "Reasonably available" means:

147 (a) readily able to be contacted without undue effort; and

148 (b) willing and able to act in a timely manner considering the urgency of the  
149 circumstances.

150 ~~{-21}~~ ~~{-24}~~ (23) "Substituted judgment" means the standard to be applied  
by a surrogate

151 when making a health care decision for an adult who previously had the capacity to make  
152 health care decisions, which requires the surrogate to consider:

153 (a) specific preferences expressed by the adult:

154 (i) when the adult had the capacity to make health care decisions; and

155 (ii) at the time the decision is being made;

156 (b) the surrogate's understanding of the adult's health care preferences;

157 (c) the surrogate's understanding of what the adult would have wanted under the  
158 circumstances; and

159 (d) to the extent that the preferences described in Subsections ~~{-21}~~ (24)(a) through  
(c)

160 are unknown, the best interest of the adult.

161 ~~{-22}~~ ~~{-25}~~ (24) "Surrogate" means a health care decision maker who is:

162 (a) an appointed agent;

163 (b) a default surrogate under the provisions of Section 75-2a-108; or

164 (c) a guardian.

3. *Page 6, Lines 171 through 181:*

- 171 (2) To overcome the presumption of capacity, a physician, physician assistant,  
172 psychologist, {clinical social worker,} or an APRN who has personally examined  
the adult and  
173 assessed the adult's health care decision making capacity must:  
174 (a) find that the adult lacks health care decision making capacity;  
175 (b) record the finding in the adult's medical chart including an indication of whether  
176 the adult is likely to regain health care decision making capacity; and  
177 (c) make a reasonable effort to communicate the determination to:  
178 (i) the adult;  
179 (ii) other health care providers or health care facilities that the [~~physician or APRN~~]  
180 person who makes the finding would routinely inform of such a finding; and  
181 (iii) if the adult has a surrogate, any known surrogate.

The motion passed unanimously.

**MOTION:** Sen. Christensen moved to pass S.B. 117, Advance Health Care Directive Act Amendments, as amended, out of committee with a favorable recommendation.

The motion passed unanimously.

Sen. Christensen assumed the chair.

3. SB0119, Hospital Emergency Room Task Force (*D.C. Buttars*)

Sen. Buttars introduced the bill.

Mr. Thronson, Ms. McOmber, and Mr. Atkinson spoke for the bill.

Mr. Weibel spoke to the bill.

**MOTION:** Sen. Buttars moved to pass S.B. 119, Hospital Emergency Room Task Force, out of committee with a favorable recommendation.

The motion passed unanimously.

Sen. Buttars resumed the chair.

4. SB0111, Health Care Workforce Financial Assistance Program Amendments (*G. Davis*)

Sen. Gene Davis introduced the bill.

Sen. Robles moved to amend S.B. 111, Health Care Workforce Financial Assistance Program Amendments, as follows:

1. *Page 3, Lines 60 through 66:*

60 26-46-102. Creation of program -- Duties of department.

61 (1) There is created within the department the Utah Health Care Workforce Financial  
62 Assistance Program to provide, within funding appropriated by the Legislature for this  
purpose:

63 (a) professional education scholarships and loan repayment assistance to health care  
64 professionals who locate or continue to practice in underserved areas[-]; and

65 (b) loan repayment assistance to geriatric professionals {, regardless of whether  
the

66 geriatric professionals provide services in underserved areas} .

The motion passed unanimously.

Sen. Christensen moved to pass S.B. 111, Health Care Workforce Financial Assistance Program Amendments, as amended, out of committee with a favorable recommendation.

The motion passed unanimously.

Sen. Christensen moved to adjourn the meeting.

The motion passed unanimously.

The meeting adjourned at 9:10 a.m.

Minutes were reported by Cami Deavila, Secretary.

---

D. Chris Buttars, Committee Chair