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Bill would exempt end-of-life decisions from conscience law

BOISE — End-of-life decisions are often made well before the end comes.

Legislation introduced Wednesday by Rep. Leon Smith, R-Twin Falls, would keep those decisions in the hands of those facing this question: If I enter a vegetative state, do I want to die or continue on life support?

Smith's bill, if passed, would amend a law passed by the Legislature last year that gave health care professionals the right to opt out of providing any care they object to based on religious, moral or ethical principles.

Smith's legislation was introduced in the House Judiciary, Rules and Administration Committee.

The 2010 legislation, known as the "conscience law," prompted concerns that a comatose patient's end-of-life wishes could be pre-empted by health professionals who cite the new law and refuse to pull the plug on life support.

"I know that I've had over a hundred contacts and probably approaching 200 people that are concerned that their living wills won't apply anymore or can be pre-empted," Smith said.

Living wills allow patients to outline their wishes in advance in case they end up in a vegetative state or can't speak for themselves. To end life support, two doctors need to certify that the patient is in a vegetative state and will not survive.

Smith's legislation doesn't call for eliminating the conscience law. Instead, it adds a sentence that says no health care professional can refuse to follow a patient's or physician's directions that conform with the "Medical Consent and Natural Death Act," the existing state law that regulates the medical profession's role in end-of-life decisions and care.

The AARP has been one of the main opponents of parts of the conscience law. Spokesman David Irwin said when Idaho AARP members were polled on issues, they ranked the conscience law and its implications for end-of-life care as second in importance only to the state budget.

"People don't enter into living wills or advanced directives lightly," Irwin said. "Our members were appalled that their wishes could be refused."

AARP launched the Patient's Rights Hotline to connect members with their legislators on the issue. Irwin said 65 percent of Idaho voters are 50 and older, and many contacted their legislators prior to the current session.

While encouraged by Smith's bill, Irwin said AARP would prefer removal of the phrase "end-of-life treatment and care" to adding another sentence in the law. Irwin said some other bills will be introduced that do just that, including one from Rep. Tom Trail, R-Moscow.

"It's a good sign that more legislators are standing up on their own on this issue," Irwin said. "They've heard from their constituents who want them to stand up for patients' rights."

The Idaho End-of-Life Coalition, an advocacy group for end-of-life issues, hasn't taken a formal stand on the conscience law, but President Cheryl Simpson-Whitaker said members strongly support respecting people's expressed decisions for care at the end of life, including those in their advanced directives.

Patty Strunk, director of Hospice Visions in Twin Falls, said hospice groups also respect the principle of the patient's right to choose.