

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	5 - 0 - 0
Yeas:	Beyer, Kruse, Prozanski, Walker, Burdick
Nays:	0
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	1/25

WHAT THE MEASURE DOES: Allows a guardian to withhold food and water from a person under the guardian's protection only if : (1) The person, prior to incapacity, clearly stated that he or she would have refused artificial administration of food and water; (2) Administration of food and water is not medically feasible or would cause severe pain; (3) The person has designated another person to make health care decisions or an advanced health care directive regarding the administration of food and water; (4) The person does not have an appointed health care representative and the person is permanently unconscious; (5) The person does not have an appointed health care representative or an advanced health care directive, the person is incapable and terminally ill; or, (6) The person has a progressive fatal illness in an advanced stage, is unable to communicate, unable to swallow food or water safely, care for oneself and recognize his or her own family, and it is very unlikely the person will substantially improve. Requires a guardian to first obtain medical confirmation of a medical condition that would allow the withholding of food and water from a person under the protection of the guardian. Applies to guardianships commenced before, on, or after the effective date of this measure.

ISSUES DISCUSSED:

- Need for medical confirmation
- Guardian should be subject to restrictions when making the decision to withhold food and water

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 125.305 allows a court to appoint a guardian for a person in order to promote and protect the well-being of this person. Among other things, the guardian may make health care decisions for the protected person. A guardian's decisions involving the artificial administration of food and water necessary to sustain the life of a temporarily or permanently incapable person are subject to ORS 127.580, which presumes that the protected person has consented to the artificial administration of food and water. However, this presumption does not apply if the protected person has a health care representative. A guardian is a health care representative. Therefore, the guardian is not subject to the presumption of administering food and water. The guardian also is not required to seek medical confirmation of the medical condition that would warrant the withholding of food and water.