

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass
Vote: 5 - 3 - 0
Yeas: Frederick, Greenlick, Harker, Weidner, Tomei
Nays: Parrish, Thompson, Gilliam
Exc.: 0
Prepared By: Jennifer Kellar, Administrator
Meeting Dates: 2/11, 2/28, 3/21, 3/30

WHAT THE MEASURE DOES: Modifies statutory language to clarify that a physician or provider can disregard declaration for mental health treatment in the state hospital or secure intensive community inpatient facility for those patients committed under forensic statutes.

ISSUES DISCUSSED:

- Patients may be involuntarily medicated in certain circumstances through formal judicial process after prescribed steps outlined in Oregon Administrative Rule
- Patient's medication refusal at Oregon State Hospital (OSH)
- The need for statute alignment for forensic and civilly committed patients
- Resolution of statutory concerns with community members, advocates and potential middle ground between parties
- Informed Consent process used to override patients directives, if in acute episode or midst of medical/mental crisis
- Basic rights issues for civilly committed patients at OSH
- Declaration for Mental Health Treatment (health advance directives) documents
- Patients making their own treatment decisions: medical; social and psychiatric
- Potential safety risk for other patients and staff without statutory provision in place
- Explanation by Attorney General's office of measure's administrative rule process
- Impact of treatment under current statute if measure not passed
- Scenarios imperative need for patients advance directive would be overridden by OSH

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Current Oregon Revised Statute (ORS) language indicates that a facility may disregard a mental health advance directive for persons committed to the Oregon Health Authority (OHA) under civil commitment statutes. The statutes are silent on OHA's authority to disregard mental health advance directives for those committed under forensic statutes. As no statutory language exists, proponents assert clarification is necessary for state hospitals to determine the obligation level for honoring mental health advance directives for forensic patients.

A mental health advance directive is a legal option, expressed during a period of competency, for persons suffering from mental illness to direct the course of future mental health treatment that may be needed after they become incapable of decision-making. Treating facilities are legally obligated to honor the terms of mental health advance directives in most circumstances. ORS 127.720 defines the exceptions to the mental health advance directive, but does not specifically address the forensic population at the state hospital.

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This summary has not been adopted or officially endorsed by action of the committee.