

House Bill 2016

Sponsored by Representative WEIDNER; Representatives BREWER, FREEMAN, JOHNSON, KENNEMER, LINDSAY, PARRISH, THOMPSON, Senator STARR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires patient seeking prescription for medication to end patient's life to undergo counseling.
Requires psychiatrist or psychologist who determines that patient's request for prescription for medication to end patient's life is appropriate to report certain information to Oregon Health Authority.

A BILL FOR AN ACT

1
2 Relating to the Oregon Death with Dignity Act; amending ORS 127.800, 127.815, 127.825, 127.855 and
3 127.865.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 127.800 is amended to read:

6 127.800. §1.01. Definitions. The following words and phrases, whenever used in ORS 127.800 to
7 127.897, have the following meanings:

8 (1) "Adult" means an individual who is 18 years of age or older.

9 (2) "Attending physician" means the physician who has primary responsibility for the care of the
10 patient and treatment of the patient's terminal disease.

11 (3) "Capable" means that in the opinion of a court or in the opinion of the patient's attending
12 physician or consulting physician, psychiatrist or psychologist, a patient has the ability to make and
13 communicate health care decisions to health care providers, including communication through per-
14 sons familiar with the patient's manner of communicating if those persons are available.

15 (4) "Consulting physician" means a physician who is qualified by specialty or experience to
16 make a professional diagnosis and prognosis regarding the patient's disease.

17 (5) "Counseling" means one or more consultations [*as necessary*] between a [*state licensed*] psy-
18 chiatrist **licensed under ORS chapter 677** or a psychologist **licensed under ORS 675.010 to**
19 **675.150** and a patient for the purpose of determining that the patient is capable and not suffering
20 from a psychiatric or psychological disorder or depression causing impaired judgment.

21 (6) "Health care provider" means a person licensed, certified or otherwise authorized or per-
22 mitted by the law of this state to administer health care or dispense medication in the ordinary
23 course of business or practice of a profession, and includes a health care facility.

24 (7) "Informed decision" means a decision by a qualified patient, to request and obtain a pre-
25 scription to end his or her life in a humane and dignified manner, that is based on an appreciation
26 of the relevant facts and after being fully informed by the attending physician of:

27 (a) His or her medical diagnosis;

28 (b) His or her prognosis;

29 (c) The potential risks associated with taking the medication to be prescribed;

30 (d) The probable result of taking the medication to be prescribed; and

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (e) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain
2 control.

3 (8) “Medically confirmed” means the medical opinion of the attending physician has been con-
4 firmed by a consulting physician who has examined the patient and the patient’s relevant medical
5 records.

6 (9) “Patient” means a person who is under the care of a physician.

7 (10) “Physician” means a doctor of medicine or osteopathy licensed to practice medicine by the
8 Oregon Medical Board.

9 (11) “Qualified patient” means a capable adult who is a resident of Oregon and has satisfied the
10 requirements of ORS 127.800 to 127.897 in order to obtain a prescription for medication to end his
11 or her life in a humane and dignified manner.

12 (12) “Terminal disease” means an incurable and irreversible disease that has been medically
13 confirmed and will, within reasonable medical judgment, produce death within six months.

14 **SECTION 2.** ORS 127.815 is amended to read:

15 127.815. §3.01. Attending physician responsibilities. (1) The attending physician shall:

16 (a) Make the initial determination of whether a patient has a terminal disease, is capable, and
17 has made the request voluntarily;

18 (b) Request that the patient demonstrate Oregon residency pursuant to ORS 127.860;

19 (c) To ensure that the patient is making an informed decision, inform the patient of:

20 (A) [*His or her*] **The patient’s** medical diagnosis;

21 (B) [*His or her*] **The patient’s** prognosis;

22 (C) The potential risks associated with taking the medication to be prescribed;

23 (D) The probable result of taking the medication to be prescribed; and

24 (E) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain
25 control;

26 (d) Refer the patient to a consulting physician for medical confirmation of the diagnosis, and for
27 a determination that the patient is capable and acting voluntarily;

28 (e) Refer the patient for counseling [*if appropriate pursuant to*] **as provided in** ORS 127.825;

29 (f) Recommend that the patient notify next of kin;

30 (g) Counsel the patient about the importance of having another person present when the patient
31 takes the medication prescribed pursuant to ORS 127.800 to 127.897 and of not taking the medication
32 in a public place;

33 (h) Inform the patient that [*he or she*] **the patient** has an opportunity to rescind the request at
34 any time and in any manner, and offer the patient an opportunity to rescind at the end of the [*15*
35 *day*] **15-day** waiting period pursuant to ORS 127.840;

36 (i) Verify, immediately prior to writing the prescription for medication under ORS 127.800 to
37 127.897, that the patient is making an informed decision;

38 (j) Fulfill the medical record documentation requirements of ORS 127.855;

39 (k) Ensure that all appropriate steps are carried out in accordance with ORS 127.800 to 127.897
40 prior to writing a prescription for medication to enable a qualified patient to end [*his or her*] **the**
41 **patient’s** life in a humane and dignified manner; and

42 (L)(A) Dispense medications directly, including ancillary medications intended to facilitate the
43 desired effect to minimize the patient’s discomfort, provided the attending physician is registered as
44 a dispensing physician with the Oregon Medical Board, has a current Drug Enforcement Adminis-
45 tration certificate and complies with any applicable administrative rule; or

(B) With the patient's written consent:

(i) Contact a pharmacist and inform the pharmacist of the prescription; and

(ii) Deliver the written prescription personally or by mail to the pharmacist, who will dispense the medications to either the patient, the attending physician or an expressly identified agent of the patient.

(2) Notwithstanding any other provision of law, the attending physician may sign the patient's death certificate.

SECTION 3. ORS 127.825 is amended to read:

127.825. §3.03. Counseling referral. (1) *[If in the opinion of the attending physician or the consulting physician a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, either physician]* **The attending physician shall refer the patient to a psychiatrist licensed under ORS chapter 677 or a psychologist licensed under ORS 675.010 to 675.150 for counseling.** *[No]*

(2) **The attending physician may not prescribe** medication to end a patient's life in a humane and dignified manner *[shall be prescribed]* until the *[person performing the counseling determines]* **psychiatrist or psychologist notifies the attending physician that the psychiatrist or psychologist has determined that the patient is:**

(a) Not suffering from a psychiatric or psychological disorder or depression causing impaired judgment[.]; **and**

(b) Voluntarily making an informed decision.

SECTION 4. ORS 127.855 is amended to read:

127.855. §3.09. Medical record documentation requirements. The following shall be documented or filed in the patient's medical record:

(1) All oral requests by a patient for medication to end *[his or her]* **the patient's** life in a humane and dignified manner;

(2) All written requests by a patient for medication to end *[his or her]* **the patient's** life in a humane and dignified manner;

(3) The attending physician's diagnosis and prognosis, **and** determination that the patient is capable, **is** acting voluntarily and has made an informed decision;

(4) The consulting physician's diagnosis and prognosis, and verification that the patient is capable, **is** acting voluntarily and has made an informed decision;

(5) A report of the outcome and determinations made during counseling*[, if performed]*;

(6) The attending physician's offer to the patient to rescind *[his or her]* **the patient's** request at the time of the patient's second oral request pursuant to ORS 127.840; and

(7) A note by the attending physician indicating that all requirements under ORS 127.800 to 127.897 have been met and indicating the steps taken to carry out the request, including a notation of the medication prescribed.

SECTION 5. ORS 127.865 is amended to read:

127.865. §3.11. Reporting requirements. (1)*[(a)]* The Oregon Health Authority shall annually review a sample of records maintained pursuant to ORS 127.800 to 127.897.

[(b)] (2) The authority shall require *[any]* **a** health care provider, upon dispensing medication pursuant to ORS 127.800 to 127.897, to file a copy of the dispensing record with the authority.

(3) **A psychiatrist or psychologist who performs counseling for a patient under ORS 127.825 and determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment and is voluntarily making an informed**

1 **decision shall submit to the authority:**

2 **(a) A report of the psychiatrist's or psychologist's evaluation of the patient;**

3 **(b) A list of the steps taken by the psychiatrist or psychologist to inform the patient of**
4 **alternative ways to alleviate emotional or physical suffering; and**

5 **(c) Other information required by the authority by rule.**

6 [(2)] (4) The authority shall [*make*] **adopt** rules to facilitate the collection of information re-
7 garding compliance with ORS 127.800 to 127.897. Except as otherwise required by law, the informa-
8 tion collected [*shall not be*] **is not** a public record and may not be made available for inspection by
9 the public.

10 [(3)] (5) The authority shall generate and make available to the public an annual statistical re-
11 port of information collected under subsection [(2)] (4) of this section.

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