

A-Engrossed
Senate Bill 579

Ordered by the Senate April 27
Including Senate Amendments dated April 27

Sponsored by Senator JOHNSON

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.

Allows hospital to appoint [*patient advocate*] **health care provider and ethics committee** to make health care decisions on behalf of patient incapable of making **and communicating** health care decisions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to patient advocates; and declaring an emergency.

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

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Health care instruction"** means a document executed by a patient to indicate the
6 patient's instructions regarding health care decisions, including an advance directive or
7 power of attorney for health care executed under ORS 127.505 to 127.660.

8 (b) **"Health care provider"** means a person licensed, certified or otherwise authorized by
9 the law of this state to administer health care in the ordinary course of business or practice
10 of a profession.

11 (c) **"Hospital"** has the meaning given that term in ORS 442.015.

12 (d) **"Mental health treatment"** means convulsive treatment, treatment of mental illness
13 with psychoactive medication, psychosurgery, admission to and retention in a health care
14 facility for care or treatment of mental illness, and related outpatient services.

15 (2)(a) **A hospital may appoint a health care provider who has received training in health**
16 **care ethics, including identification and management of conflicts of interest and acting in the**
17 **best interest of the patient, to give informed consent to medically necessary health care**
18 **services on behalf of a patient admitted to the hospital in accordance with subsection (3) of**
19 **this section.**

20 (b) **A hospital may appoint a multidisciplinary committee with ethics as a core compo-**
21 **nent of the duties of the committee, or a hospital ethics committee, to participate in making**
22 **decisions about giving informed consent to medically necessary health care services on be-**
23 **half of a patient admitted to the hospital in accordance with subsection (3) of this section.**

24 (3) **A person appointed by a hospital under subsection (2) of this section may give in-**
25 **formed consent to medically necessary health care services on behalf of and in the best in-**
26 **terest of a patient admitted to the hospital if:**

27 (a) **In the medical opinion of the attending physician, the patient lacks the ability to**

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 make and communicate health care decisions to health care providers;

2 (b) The hospital has performed a reasonable search, in accordance with the hospital's
3 policy for locating relatives and friends of a patient, for a health care representative ap-
4 pointed under ORS 127.505 to 127.660 or an adult relative or adult friend of the patient who
5 is capable of making health care decisions for the patient, including contacting social service
6 agencies of the Oregon Health Authority or the Department of Human Services if the hos-
7 pital has reason to believe that the patient has a case manager with the authority or the
8 department, and has been unable to locate any person who is capable of making health care
9 decisions for the patient; and

10 (c) The hospital has performed a reasonable search for and is unable to locate any health
11 care instruction executed by the patient.

12 (4) Notwithstanding subsection (3) of this section, if a patient's wishes regarding health
13 care services were made known during a period when the patient was capable of making and
14 communicating health care decisions, the hospital and the person appointed under subsection
15 (2) of this section shall comply with those wishes.

16 (5) A person appointed under subsection (2) of this section may not consent on a patient's
17 behalf to:

18 (a) Mental health treatment;

19 (b) Sterilization;

20 (c) Abortion;

21 (d) Except as provided in ORS 127.635 (3), the withholding or withdrawal of life-sustaining
22 procedures as defined in ORS 127.505; or

23 (e) Except as provided in ORS 127.580 (2), the withholding or withdrawal of artificially
24 administered nutrition and hydration, as defined in ORS 127.505, other than
25 hyperalimentation, necessary to sustain life.

26 (6) If the person appointed under subsection (2) of this section knows the patient's reli-
27 gious preference, the person shall make reasonable efforts to confer with a member of the
28 clergy of the patient's religious tradition before giving informed consent to health care ser-
29 vices on behalf of the patient.

30 (7) A person appointed under subsection (2) of this section is not a health care repre-
31 sentative as defined in ORS 127.505.

32 **SECTION 2.** This 2011 Act being necessary for the immediate preservation of the public
33 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
34 on its passage.