

# Enrolled Senate Bill 579

Sponsored by Senator JOHNSON, Representatives HOYLE, WEIDNER

CHAPTER .....

AN ACT

Relating to patient advocates; and declaring an emergency.

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

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

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

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

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

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

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

(B) If a person appointed under subparagraph (A) of this paragraph is the patient's attending physician, the hospital must also appoint another health care provider who meets the requirements of subparagraph (A) of this paragraph to participate in making decisions about giving informed consent to health care services on behalf of the patient.

(b) A hospital may appoint a multidisciplinary committee with ethics as a core component of the duties of the committee, or a hospital ethics committee, to participate in making decisions about giving informed consent to medically necessary health care services on behalf of a patient admitted to the hospital in accordance with subsection (3) of this section.

(3) A person appointed by a hospital under subsection (2) of this section may give informed consent to medically necessary health care services on behalf of and in the best interest of a patient admitted to the hospital if:

(a) In the medical opinion of the attending physician, the patient lacks the ability to make and communicate health care decisions to health care providers;

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

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

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

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

(a) Mental health treatment;

(b) Sterilization;

(c) Abortion;

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

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

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

(7) A person appointed under subsection (2) of this section is not a health care representative as defined in ORS 127.505.

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

Passed by Senate May 2, 2011

Received by Governor:

Repassed by Senate June 13, 2011

.....M.,....., 2011

Approved:

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Robert Taylor, Secretary of Senate

.....M.,....., 2011

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Peter Courtney, President of Senate

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John Kitzhaber, Governor

Passed by House June 7, 2011

Filed in Office of Secretary of State:

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Bruce Hanna, Speaker of House

.....M.,....., 2011

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Arnie Roblan, Speaker of House

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Kate Brown, Secretary of State