



## **MEMORANDUM**

To: Rep. Greenlick, Chair, House Committee on Health Care  
Rep. Hayden, Vice-Chair, House Committee on Health Care  
Rep. Nosse, Vice-Chair, House Committee on Health Care  
Members of the House Committee on Health Care

From: Bryan Boehringer, OMA Government Relations  
Courtnei Dresser, OMA Government Relations

Date: April 3, 2015

Re: Opposition to HB 3200

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OMA supports access to quality health care services for all Oregonians regardless of age.

HB 3200 seeks to criminalize the conduct of providers who deny services based upon a patient being age 65 or older. Criminalizing medical judgement, especially regarding the value of a medical service, is not an acceptable medical-legal standard. American Medical Association (AMA) Policy H-160.946 opposes the criminalization of the health care decision-making process because it “interferes with appropriate decision-making and is a disservice to the American public.” OMA agrees with that policy.

Any bill that seeks to criminalize conduct should be clear so that individuals subject to the law understand exactly what conduct is illegal. HB 3200 is too vague. The bill relies on phrases like “health care necessary to prevent death” to judge whether or not a provider has engaged in criminal conduct. In other words, a provider’s decision to order (or not order) a test or service could be viewed retrospectively as leading to the patient’s death, even though there was no intent to hasten death. Under such vague standards, a provider’s ability to engage in clear decision-making about a patient’s care would be tainted by the threat of criminal prosecution.

The bill also sets up providers to fail in maintaining effective provider-patient relationships. Disagreements about treatment decisions between providers and patients or the patients’ representatives suddenly could result in criminal allegations. If passed, HB 3200 likely would make access to care more difficult for Oregon’s elderly population. What rational provider would want to accept the risk of criminal prosecution under HB 3200’s vague definitions simply for deciding what tests or services to provide an elderly patient?

Supporters of the bill may argue that a Class A misdemeanor is not a high criminal standard. OMA disagrees because a violation of the bill under that standard means up to a year in prison, a \$6,250 fine,

or both. Is prison time an appropriate remedy for providers who, in their clinical judgment, may disagree about treatment options with their patients?

Respectfully, the OMA opposes the bill.

**The Oregon Medical Association is an organization of over 8,100 physicians, physician assistants, and medical students organized to serve and support physicians in their efforts to improve the health of Oregonians. Additional information can be found at [www.theOMA.org](http://www.theOMA.org).**