

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: No revenue impact**FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Channa Newell, Counsel**Meeting Dates:** 4/7

WHAT THE MEASURE DOES: Modifies advance directive statutes. Removes statutory form of advanced directive. Prohibits state agency from prescribing form or content of advanced directive. Allows use of checklist of health care choices presented by attending physician to be valid advanced directive. Provides guidance on contents of advanced directive, including 1) designation of attorney in fact for health care; 2) designation of alternative attorney in fact; 3) health care instructions in checklist form; and 4) instructions on health care in form of explanation of religious beliefs, principles, or others guidance. Provides civil liability protection for those who authorize treatments not specifically mentioned in advanced directive if basis for decision contained in health care explanation. Requires signature of two adult witnesses for effective execution of advanced directive. Allows both witnesses to be owner, operator, or employee of health care facility at which principal is patient or resident. Allows one witness to be principal's attending physician, health care services provider, or person with medical billing responsibilities. Allows attorney-in-fact and alternative attorney-in-fact to be witnesses. Allows electronic execution of advance directive. Allows health care provider to make health care decisions for principal in limited circumstances; provides liability protection against health care provider acting in such situations. Removes references to penalties for alteration, forgery, concealment or destruction of advance directive within execution requirements.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: Proposed (-1) amendment allows advance directive to specify when such document becomes effective.

Proposed (-2) amendment restores statutory form. Requires Oregon Health Authority to adopt new model forms for advanced directives that account for principal's values and beliefs, allows inclusion of advance directive as part of medical record, and establish minimum specifications for execution of advance directives. Specifies members of rules advisory committee. Repeals current statutory form on January 1, 2018. Prohibits attorney-in-fact or alternative attorney-in fact from being principal's attending physician, health care provider, or employee or volunteer of healthcare facility where principal resides. Requires decisions made by health care provider in absence of attorney-in-fact, alternative, or health care representative to conform with health care instructions contained in advanced directive, evidence-based practices, and input from interested parties.

BACKGROUND: Advance directives are documents that provide health care instructions that take effect when a person become incapacitated and can no longer make their own health care decisions. The advance directive appoints a person to make health care decisions, called the "attorney-in-fact." A secondary decision maker can also be appointed, called the "alternative attorney-in-fact." Currently, Oregon utilizes a statutory form for advance directives and requires the form to be signed by the principal and witnesses by two individuals.

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