

House Bill 2368

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

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**.

Provides that if person has both valid health care instruction, or valid power of attorney for health care, and declaration for mental health treatment, that inconsistencies in documents are governed by declaration for mental health treatment.

A BILL FOR AN ACT

1
2 Relating to proxies for health care decisions; creating new provisions; and amending ORS 127.545.

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

4 **SECTION 1.** ORS 127.545 is amended to read:

5 127.545. (1) An advance directive or a health care decision by a health care representative may
6 **be revoked:**

7 (a) If *[it]* **the advance directive or health care decision** involves the decision to withhold or
8 withdraw life-sustaining procedures or artificially administered nutrition and hydration, *[be*
9 *revoked]* at any time and in any manner by which the principal is able to communicate the intent
10 to revoke; or

11 (b) *[Be revoked]* At any time and in any manner by a capable principal.

12 (2) Revocation is effective upon communication by the principal to the attending physician or
13 health care provider, or to the health care representative. If the *[communication]* **revocation** is
14 **communicated** to the health care representative, and the principal is incapable and is under the
15 care of a health care provider known to the representative, the health care representative must
16 promptly inform the attending physician or health care provider of the revocation.

17 (3) Upon learning of the revocation, the health care provider or attending physician shall cause
18 the revocation to be made a part of the principal's medical records.

19 (4) Execution of a valid power of attorney for health care revokes any prior power of attorney
20 for health care. Unless the health care instruction provides otherwise, execution of a valid health
21 care instruction revokes any prior health care instruction.

22 (5) Unless the advance directive provides otherwise, the directions as to health care decisions
23 in a valid advance directive supersede:

24 (a) Any directions contained in a previous court appointment or advance directive; and

25 (b) Any prior inconsistent expression of desires with respect to health care decisions.

26 (6) Unless the power of attorney for health care provides otherwise, valid appointment of an
27 attorney-in-fact for health care supersedes:

28 (a) Any power of a guardian or other person appointed by a court to make health care decisions
29 for the protected person; and

30 (b) Any other prior appointment or designation of a health care representative.

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 (7) Unless the power of attorney for health care expressly provides otherwise, a power of at-
2 torney for health care is suspended:

3 (a) If both the attorney-in-fact and the alternative attorney-in-fact have withdrawn; or

4 (b) If the power of attorney names the principal's spouse as attorney-in-fact, a petition for dis-
5 solution or annulment of marriage is filed and the principal does not reaffirm the appointment in
6 writing after the filing of the petition.

7 (8)(a) If the principal has both a valid health care instruction and a valid power of attorney for
8 health care, and if the directions reflected in those documents are inconsistent, the document last
9 executed governs to the extent of the inconsistency.

10 (b) **If the principal has both a valid health care instruction, or a valid power of attorney**
11 **for health care, and a declaration for mental health treatment made in accordance with ORS**
12 **127.700 to 127.737, and if the directions reflected in those documents are inconsistent, the**
13 **directions contained in the declaration for mental health treatment governs to the extent**
14 **of the inconsistency.**

15 (9) Any reinstatement of an advance directive must be in writing.

16 **SECTION 2. The amendments to ORS 127.545 by section 1 of this 2015 Act apply to health**
17 **care instructions, executions of power of attorney for health care and declarations for men-**
18 **tal health treatment that are made before, on or after the effective date of this 2015 Act.**