

STAFF MEASURE SUMMARY

CARRIER: Sen. Kruse

Senate Committee On Judiciary

Fiscal: Fiscal impact issued**Revenue:** No Revenue Impact**Action Date:** 02/08/16**Action:** Do Pass With Amendments. (Printed A-Eng.)**Meeting Dates:** 02/04, 02/08**Vote:**

Yeas: 4 - Gelser, Kruse, Prozanski, Rosenbaum

Nays: 1 - Thatcher

Prepared By: Channa Newell, Counsel**WHAT THE MEASURE DOES:**

Revises Advance Directive form. Modifies power of attorney for health care for appointment of health care representative. Provides updates to appointment of health care representative portion of advance directive. Clarifies directions regarding end of life care. Creates Advance Directive Rules Adoption Committee within Oregon Health Authority to review and amend advance directive. Charges Committee with developing form providing principal with opportunity to express values and beliefs with respect to health care decisions. Allows narrative description of health care wishes. Specifies advance directive form is only form for use in Oregon. Honors forms completed by residents of other jurisdictions. Requires new advance directive forms to contain appointment of health care representative as found in statute. Requires first revision of advance directive from Committee by January 1, 2020. Changes witness requirement to allow witnessing by two adults so long as witnesses are not health care provider or health care representative. Allows notarization in lieu of witnessing.

ISSUES DISCUSSED:

- History of advance directive
- Variety of users of planning document
- Importance of simplicity and clarity
- Desire for ability to modify instructions for health care when problems arise
- Oversight of legislative body
- Additional amendments to be proposed in House Committee

EFFECT OF COMMITTEE AMENDMENT:

Makes small changes to structure and charge of Rules Adoption Committee. Clarifies language in forms. Separates appointment of health care representative from instructions for care. Provides confirming amendments.

BACKGROUND:

The Oregon Advance Directive form was developed in 1993 and was the first of its kind in the nation. The advance directive allows a person to express treatment preference when that person is not able to communicate their wishes and allows a person to appoint another to carry out their wishes and make health care decisions on their behalf. Since its inception, the advance directive form has not been modified in any way. A work group met through the 2015 interim to update the advance directive and look for ways to provide meaningful information on health care choices.

Senate Bill 1552 does three major things: it creates a committee within the Oregon Health Authority to revise the directions on the care portion of the advance directive; it updates and streamlines the appointment of the health care representative; and it modifies the witnessing requirements for creating an advance directive. The streamlining of the appointment form provides greater clarity and ease of use on the legal appointment of a health care representative. To provide consistency and certainty, this portion of the advance directive may only be changed by modifying statute. The Rules Adoption Committee may review the directions on the care portion of the directive and update it as needed to provide clarity and meaningful options for describing health care treatment preferences. Additionally, the measure removes burdensome witnessing requirements and

allows any two adults to witness the creation of the directive, so long as the witnesses are not the health care provider or the health care representative. Persons creating an advance directive may also utilize a notary for verification of the document.