

## **SB 494 -7, -8 STAFF MEASURE SUMMARY**

### **Senate Committee On Judiciary**

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**Prepared By:** Channa Newell, Counsel

**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 3/23, 3/27, 4/11

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#### **WHAT THE MEASURE DOES:**

Updates advance directive form. Creates Advance Directive Rules Adoption Committee to periodically update specified sections of advance directive form. Modifies witnessing requirement to allow witnessing by persons previously excluded or by notarization. Retains prohibition on witnessing by health care representative, alternate representative, and health care provider. Provides updated temporary form of advance directive. Removes terms "attorney in fact" and "power of attorney for health care." Clarifies additional terms. Removes obsolete provisions. Allows continued effectiveness of current advance directives and allows use of out-of-date advance directives.

#### **ISSUES DISCUSSED:**

##### **EFFECT OF AMENDMENT:**

-7 Corrects references to members of Committee. Restores terms "life support" and "tube feeding" and defines terms. Allows acceptance of appointment as health care representative by means other than writing. Clarifies "advance directive" means a document executed by a principal that contains a form appointing a health care representative and instructions to the health care representative and any supplementary document or writing attached by the principal. Requires first form submitted to be ratified according to constitutional requirements for passage of legislative measure.

-8 Requires approval of form by Legislative Assembly and Governor, in manner required for passage of legislative measure.

##### **BACKGROUND:**

The Oregon advance directive was adopted in 1993 and was the first advance directive in the nation. An advance directive is a legal document that appoints a representative to make health care decisions for another when the person is incapacitated. It also allows a person to provide directions and preferences on receiving life-sustaining treatments when one or more conditions exist. Those conditions are: close to death, permanently unconscious, with a progressive fatal illness and unable to communicate, swallow food or water safely, care for self, or recognize family or others, and medical conditions in which life support would not help the condition and would make the person suffer permanent and severe pain. The advance directive does not apply when a person can make health care decisions. Since 1993, the advance directive has not been modified in any way.

Senate Bill 494 revises the current advance directive form. It creates a 13 member Advance Directive Rules Adoption Committee to revise the sections of the advance directive relating to the purpose of the form and proper execution and acceptance. The Committee is also tasked with developing the section of the form for the values, beliefs, and health care treatment options of the person, including both opportunity for narrative and a checklist. The sections of the form relating to appointment of the health care representative, alternates, acceptance, and witnessing, remain in statute and may not be modified by the Committee. Every four years, the measure allows the Committee to offer a report and proposed revised form to the Legislative Assembly Committees on Judiciary and Healthcare in each chamber. If the Legislative Assembly does not act in the following legislative session, the new form takes effect.

Additionally, the measure makes modifications to the current form for use in the intervening four year period. Other changes include changing "physician" to "health care provider" throughout the form, allowing witnessing of the form

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by employees of a health care facility, and allowing witnessing by notarization. The measure allows a person to execute an older version of an advance directive and retains effectiveness of current advance directives.

PRELIMINARY