

SB 494 A -13 STAFF MEASURE SUMMARY

Senate Committee On Rules

Prepared By: Cherie Stone, LPRO Analyst

Meeting Dates: 6/5

WHAT THE MEASURE DOES:

Modifies statutory advance directive form. Creates Advance Directive Adoption Committee (ADAC) consisting of Long Term Care Ombudsman and 12 members appointed by Governor. Requires ADAC to adopt advance directive form and to review form at least once every four years. Establishes components of form that cannot be changed by ADAC. Requires first form adopted by ADAC to be ratified in manner of legislative measure. Requires subsequent changes to form to be submitted to interim committees related to health care and judiciary. Prohibits changes to form from taking effect until after adjournment sine die in odd-numbered year. Requires advance directive form to be notarized or witnessed by two adults other than health care provider or health care representative. Applies to advance directives executed on or after January 1, 2018.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-13 Eliminates conditional enactment criteria triggering effective date of measure. Requires adopted form of advance care directive be ratified by Legislative Assembly in regular session occurring in odd numbered year. Directs ADAC to submit form of advance directive to interim committee of Legislative Assembly related to judiciary on or before September 1 following the form adoption date. Directs interim committee to file proposed legislative measure upon receipt of advance directive form.

BACKGROUND:

In 1993, Oregon adopted the first advance directive legislation in the nation. An advance directive is a legal document that appoints a representative to make health care decisions for another when that person becomes incapacitated. Additionally, it allows a person to provide directions and preferences on receiving life-sustaining treatments when one or more conditions exist, including the following: close to death, permanently unconscious; progressive fatal illness with inability to communicate, swallow food or water safely, care for self, and 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. The current advance directive has not been modified in any way since 1993.

Senate Bill 494-A revises the current advance directive form. It creates a 13-member Advance Directive Adoption Committee (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. The Legislative Assembly must adopt the Committee's first form as legislation. At least every four years, the measure requires the Committee to review the form and allows it to offer a report and proposed revised form to the Legislative Assembly committees on judiciary and health care in each chamber. If the Legislative Assembly does not act in the following legislative session, the new form takes effect. Additionally, the measure changes the current statutory form. Other changes include changing "physician" to "health care provider" throughout the form, allowing witnessing of the form 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