

# D R A F T

## SUMMARY

Requires Oregon Health Authority to establish and operate statewide registry for collection and dissemination of advance directives. Establishes Oregon Advance Directive Registry Advisory Committee to advise authority regarding registry.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to advance directives; and prescribing an effective date.

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

4 **SECTION 1. As used in sections 1 to 3 of this 2017 Act:**

5 (1) **“Advance directive” has the meaning given that term in ORS**  
6 **127.505.**

7 (2) **“Attorney” has the meaning given that term in ORS 9.310.**

8 (3) **“Authorized user” means a principal, health care representative,**  
9 **attorney or other person authorized by the Oregon Health Authority**  
10 **to provide information to or receive information from the advance di-**  
11 **rective registry established in section 2 of this 2017 Act.**

12 (4) **“Health care facility” has the meaning given that term in ORS**  
13 **127.505.**

14 (5) **“Health care representative” has the meaning given that term**  
15 **in ORS 127.505.**

16 (6) **“Physician” has the meaning given that term in ORS 677.010.**

17 (7) **“Principal” has the meaning given that term in ORS 127.505.**

18 (8) **“Qualified researcher” means a researcher authorized by the**  
19 **Oregon Health Authority to receive information from the advance di-**

1 **rective registry established in section 2 of this 2017 Act for appropriate**  
2 **research projects, as determined by the authority.**

3 **SECTION 2. (1) The Oregon Health Authority shall establish and**  
4 **operate a statewide advance directive registry for the collection and**  
5 **dissemination of advance directives to help ensure that medical treat-**  
6 **ment preferences for an individual nearing the end of the individual's**  
7 **life are honored.**

8 **(2) The authority shall adopt rules for the registry, including rules**  
9 **that:**

10 **(a) Enable a principal, health care representative, attorney or phy-**  
11 **sician to submit the following documents to the registry:**

12 **(A) A copy of a principal's advance directive;**

13 **(B) A copy of a revised advance directive; and**

14 **(C) Notice of any known revocation of an advance directive;**

15 **(b) Prescribe the manner for submitting information described in**  
16 **paragraph (a) of this subsection;**

17 **(c) Require the release of registry information to authorized users**  
18 **for treatment purposes;**

19 **(d) Authorize notification by the registry to specified persons of the**  
20 **receipt, revision or revocation of an advance directive; and**

21 **(e) Establish procedures to protect the accuracy and confidentiality**  
22 **of information submitted to the registry.**

23 **(3) The Oregon Health Authority may permit a qualified researcher**  
24 **to access registry data. If the authority permits a qualified researcher**  
25 **to access registry data, the authority shall adopt rules governing the**  
26 **access to data that shall include:**

27 **(a) The process for a qualified researcher to request access to reg-**  
28 **istry data;**

29 **(b) The types of data that a qualified researcher may be provided**  
30 **from the registry; and**

31 **(c) The manner by which a qualified researcher must protect reg-**

1 **istry data obtained under this subsection.**

2 **(4) The Oregon Health Authority may contract with a private or**  
3 **public entity to establish or maintain the registry. Any contract en-**  
4 **tered into under this subsection is exempt from the requirements of**  
5 **ORS chapters 279A, 279B and 279C.**

6 **(5)(a) Nothing in sections 1 to 3 of this 2017 Act requires the Oregon**  
7 **Health Authority to:**

8 **(A) Prescribe the form or content of an advance directive;**

9 **(B) Disseminate forms to be used for an advance directive;**

10 **(C) Educate the public about advance directives; or**

11 **(D) Train health care providers about advance directives.**

12 **(b) Nothing in sections 1 to 3 of this 2017 Act requires an individual**  
13 **to have an advance directive. An advance directive may be revoked**  
14 **at any time.**

15 **(6) Except as otherwise provided in this section, all information**  
16 **collected or developed by the advance directive registry that identifies**  
17 **or could be used to identify a patient, health care provider or facility**  
18 **is confidential and is not subject to disclosure under ORS 192.410 to**  
19 **192.505, to civil or administrative subpoena or to discovery in a civil**  
20 **action, including but not limited to a judicial, administrative, arbi-**  
21 **tration or mediation proceeding.**

22 **(7) Any person reporting information to the advance directive reg-**  
23 **istry or acting on information obtained from the advance directive**  
24 **registry in good faith is immune from any civil or criminal liability**  
25 **that might otherwise be incurred or imposed with respect to the re-**  
26 **porting of information to the advance directive registry or acting on**  
27 **information obtained from the advance directive registry.**

28 **SECTION 3. (1) The Oregon Advance Directive Registry Advisory**  
29 **Committee is established to advise the Oregon Health Authority re-**  
30 **garding the implementation, operation and evaluation of the advance**  
31 **directive registry.**

1       **(2) The Director of the Oregon Health Authority shall appoint**  
2 **members to the committee, including:**

3       **(a) A health professional with extensive experience and leadership**  
4 **in advance directive issues;**

5       **(b) An attorney who has extensive experience representing health**  
6 **care facilities and physicians in advance directive issues;**

7       **(c) A representative from the hospital community with extensive**  
8 **experience and leadership in advance directive issues;**

9       **(d) A representative from the long term care community with ex-**  
10 **tensive experience and leadership in advance directive issues;**

11       **(e) A representative from the hospice community with extensive**  
12 **experience and leadership in advance directive issues;**

13       **(f) An attorney who has extensive experience representing individ-**  
14 **uals in estate planning and advance directive issues; and**

15       **(g) Two members of the public with active interest in end-of-life**  
16 **treatment preferences, at least one of whom represents the interests**  
17 **of minorities.**

18       **(3) The Long Term Care Ombudsman, or a designee of the Long**  
19 **Term Care Ombudsman, shall serve as a voting ex officio member of**  
20 **the committee.**

21       **(4) The Director of the Oregon Health Authority may appoint addi-**  
22 **tional members to the committee.**

23       **(5) The committee shall meet at least four times per year, at times**  
24 **and places specified by the Director of the Oregon Health Authority.**

25       **(6) The Oregon Health Authority shall provide staff support for the**  
26 **committee.**

27       **(7) Except for the Long Term Care Ombudsman, a member of the**  
28 **committee shall serve a term of two years. Before the expiration of**  
29 **the term of a member, the director shall appoint a successor whose**  
30 **term begins on January 2 next following. A member is eligible for re-**  
31 **appointment. If there is a vacancy for any cause, the Director of the**

1 **Oregon Health Authority shall make an appointment to become im-**  
2 **mediately effective for the unexpired term.**

3 **(8) The Director of the Oregon Health Authority, or a designee of**  
4 **the director, shall consult with the committee in drafting rules on the**  
5 **implementation, operation and evaluation of the advance directive**  
6 **registry.**

7 **SECTION 4. Notwithstanding the term of office specified in section**  
8 **3 of this 2017 Act, of the members described in section 3 of this 2017**  
9 **Act who are first appointed to the Oregon Advance Directive Registry**  
10 **Advisory Committee:**

11 **(1) At least two shall serve for terms ending January 1, 2019.**

12 **(2) At least three shall serve for terms ending January 1, 2020.**

13 **(3) At least three shall serve for terms ending January 1, 2021.**

14 **SECTION 5. This 2017 Act takes effect on the 91st day after the date**  
15 **on which the 2017 regular session of the Seventy-ninth Legislative**  
16 **Assembly adjourns sine die.**

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