

**SB 494 A STAFF MEASURE SUMMARY**

**Carrier:** Sen. Thatcher

**Senate Committee On Judiciary**

**Minority Report**

---

**Action Date:** 04/18/17

**Action:** Do pass with different amendments. Refer to Ways and Means by prior reference.  
(Printed A-Eng.) Minority

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Report Signers:** Sen. Kim Thatcher, Sen. Dennis Linthicum

**Prepared By:** Josh Nasbe, Counsel

---

**WHAT THE MEASURE DOES:**

Creates Advanced Directive Adoption Committee (ADAC) in Oregon Health Authority, consisting of Long Term Care Ombudsman, 12 members appointed by President of Senate and one member each appointed by Speaker of House, House Minority Leader and Senate Minority Leader. Requires ADAC to adopt advance directive form, review form at least once every four years and review statutes pertaining to attorney-in-fact and advance directives. Requires submission of form to interim committee on judiciary and directs committee to request legislation to ratify form. Prohibits form from taking effect unless ratified by Legislative Assembly and Governor. Requires advance directive instructions to indicate that form must be notarized or witnessed by at least two adults. Maintains prohibitions on specified persons serving as witness.

**ISSUES DISCUSSED:**

- Process for modifying advance directive form; role of legislature
- Preserving individual's decisions in event he or she becomes incapable of decision-making
- Scope of authority of health care representative; default authority under form
- Attorney-in-fact vs. health care representative
- Physician Orders for Life Sustaining Treatment (POLST) vs. advanced directive
- Alzheimer's disease and dementia
- Provision of food and water

**EFFECT OF AMENDMENT:**

Replaces the measure.

**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 the person becomes 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; 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. Since 1993, the advance directive has not been modified in any way.

Senate Bill 494-MRA creates a committee to, among other tasks, review and adopt a proposed advance directive form and submit the form to the interim committee on judiciary. Upon receipt, the committee is required to draft legislation amending the statutory form. Proposed revisions to the form submitted by the committee do not take effect unless the legislation is ratified by the Legislative Assembly and Governor.