

Enrolled
House Bill 2393

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care)

CHAPTER

AN ACT

Relating to life-sustaining procedures; amending ORS 127.635.

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

SECTION 1. ORS 127.635 is amended to read:

127.635. (1) Life-sustaining procedures [*as defined in ORS 127.505*] that would otherwise be applied to [*an incapable*] a principal **who is incapable and** who does not have an appointed health care representative or applicable valid advance directive may be withheld or withdrawn in accordance with subsections (2) and (3) of this section if the principal has been medically confirmed to be in one of the following conditions:

- (a) A terminal condition;
- (b) Permanently unconscious;
- (c) A condition in which administration of life-sustaining procedures would not benefit the principal's medical condition and would cause permanent and severe pain; or

(d) [*The person has a progressive illness that will be fatal and is in*] An advanced stage[, *the person*] **of a progressive illness that will be fatal, and the principal** is consistently and permanently unable to communicate by any means, **to** swallow food and water safely, **to** care for the [*person's*] **principal's** self and **to** recognize the [*person's*] **principal's** family and other people, and it is very unlikely that the [*person's*] **principal's** condition will substantially improve.

(2) If a principal's condition has been determined to meet one of the conditions set forth in subsection (1) of this section, and the principal does not have an appointed health care representative or applicable **valid** advance directive, the principal's health care representative shall be the first of the following, in the following order, who can be located upon reasonable effort by the health care facility and who is willing to serve as the health care representative:

- (a) A guardian of the principal who is authorized to make health care decisions, if any;
- (b) The principal's spouse;
- (c) An adult designated by the others listed in this subsection who can be so located, if no person listed in this subsection objects to the designation;
- (d) A majority of the adult children of the principal who can be so located;
- (e) Either parent of the principal;
- (f) A majority of the adult siblings of the principal who can be located with reasonable effort;

or

- (g) Any adult relative or adult friend.

(3) If none of the persons described in subsection (2) of this section is available, then life-sustaining procedures may be withheld or withdrawn upon the direction and under the supervision of the attending physician.

[4] (4)(a) Life-sustaining procedures may be withheld or withdrawn upon the direction and under the supervision of the attending physician at the request of a person designated the health care representative under subsections (2) and (3) of this section only after the person has consulted with concerned family and close friends[,] and, if the principal has a case manager, as defined by rules adopted by the Department of Human Services, after giving notice to the principal's case manager.

(b) A case manager who receives notice under paragraph (a) of this subsection shall provide the person giving the case manager notice with any information in the case manager's possession that is related to the principal's values, beliefs and preferences with respect to the withholding or withdrawing of life-sustaining procedures.

(5) Notwithstanding subsection (2) of this section, a person who is the principal's parent or former guardian may not withhold or withdraw life-sustaining procedures under this section if:

(a) At any time while the principal was under the care, custody or control of the person, a court entered an order:

(A) Taking the principal into protective custody under ORS 419B.150; or

(B) Committing the principal to the legal custody of the Department of Human Services for care, placement and supervision under ORS 419B.337; and

(b) The court entered a subsequent order that:

(A) The principal should be permanently removed from the person's home, or continued in substitute care, because it was not safe for the principal to be returned to the person's home, and no subsequent order of the court was entered that permitted the principal to return to the person's home before the principal's wardship was terminated under ORS 419B.328; or

(B) Terminated the person's parental rights under ORS 419B.500 and 419B.502 to 419B.524.

(6) A principal, while not incapable, may petition the court to remove a prohibition contained in subsection (5) of this section.

Passed by House April 19, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 15, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State