

Senate Bill 768

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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 127.505.

6 (2) "Attorney" has the meaning given that term in ORS 9.310.

7 (3) "Authorized user" means a principal, health care representative, attorney or other
8 person authorized by the Oregon Health Authority to provide information to or receive in-
9 formation from the advance directive registry established in section 2 of this 2017 Act.

10 (4) "Health care facility" has the meaning given that term in ORS 127.505.

11 (5) "Health care representative" has the meaning given that term in ORS 127.505.

12 (6) "Physician" has the meaning given that term in ORS 677.010.

13 (7) "Principal" has the meaning given that term in ORS 127.505.

14 (8) "Qualified researcher" means a researcher authorized by the Oregon Health Author-
15 ity to receive information from the advance directive registry established in section 2 of this
16 2017 Act for appropriate research projects, as determined by the authority.

17 **SECTION 2. (1) The Oregon Health Authority shall establish and operate a statewide**
18 **advance directive registry for the collection and dissemination of advance directives to help**
19 **ensure that medical treatment preferences for an individual nearing the end of the**
20 **individual's life are honored.**

21 (2) The authority shall adopt rules for the registry, including rules that:

22 (a) Enable a principal, health care representative, attorney or physician to submit the
23 following documents to the registry:

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

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

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

27 (b) Prescribe the manner for submitting information described in paragraph (a) of this
28 subsection;

29 (c) Require the release of registry information to authorized users for treatment pur-
30 poses;

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

3 (e) Establish procedures to protect the accuracy and confidentiality of information sub-
4 mitted to the registry.

5 (3) The Oregon Health Authority may permit a qualified researcher to access registry
6 data. If the authority permits a qualified researcher to access registry data, the authority
7 shall adopt rules governing the access to data that shall include:

8 (a) The process for a qualified researcher to request access to registry data;

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

10 (c) The manner by which a qualified researcher must protect registry data obtained un-
11 der this subsection.

12 (4) The Oregon Health Authority may contract with a private or public entity to establish
13 or maintain the registry. Any contract entered into under this subsection is exempt from the
14 requirements of ORS chapters 279A, 279B and 279C.

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

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

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

19 (C) Educate the public about advance directives; or

20 (D) Train health care providers about advance directives.

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

23 (6) Except as otherwise provided in this section, all information collected or developed
24 by the advance directive registry that identifies or could be used to identify a patient, health
25 care provider or facility is confidential and is not subject to disclosure under ORS 192.410 to
26 192.505, to civil or administrative subpoena or to discovery in a civil action, including but not
27 limited to a judicial, administrative, arbitration or mediation proceeding.

28 (7) Any person reporting information to the advance directive registry or acting on in-
29 formation obtained from the advance directive registry in good faith is immune from any
30 civil or criminal liability that might otherwise be incurred or imposed with respect to the
31 reporting of information to the advance directive registry or acting on information obtained
32 from the advance directive registry.

33 **SECTION 3.** (1) The Oregon Advance Directive Registry Advisory Committee is estab-
34 lished to advise the Oregon Health Authority regarding the implementation, operation and
35 evaluation of the advance directive registry.

36 (2) The Director of the Oregon Health Authority shall appoint members to the commit-
37 tee, including:

38 (a) A health professional with extensive experience and leadership in advance directive
39 issues;

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

42 (c) A representative from the hospital community with extensive experience and leader-
43 ship in advance directive issues;

44 (d) A representative from the long term care community with extensive experience and
45 leadership in advance directive issues;

1 (e) A representative from the hospice community with extensive experience and leader-
2 ship in advance directive issues;

3 (f) An attorney who has extensive experience representing individuals in estate planning
4 and advance directive issues; and

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

7 (3) The Long Term Care Ombudsman, or a designee of the Long Term Care Ombudsman,
8 shall serve as a voting ex officio member of the committee.

9 (4) The Director of the Oregon Health Authority may appoint additional members to the
10 committee.

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

13 (6) The Oregon Health Authority shall provide staff support for the committee.

14 (7) Except for the Long Term Care Ombudsman, a member of the committee shall serve
15 a term of two years. Before the expiration of the term of a member, the director shall ap-
16 point a successor whose term begins on January 2 next following. A member is eligible for
17 reappointment. If there is a vacancy for any cause, the Director of the Oregon Health Au-
18 thority shall make an appointment to become immediately effective for the unexpired term.

19 (8) The Director of the Oregon Health Authority, or a designee of the director, shall
20 consult with the committee in drafting rules on the implementation, operation and evalu-
21 ation of the advance directive registry.

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

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

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

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

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

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