

Requested by Senator THATCHER

**PROPOSED MINORITY REPORT AMENDMENTS TO
SENATE BILL 494**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and lines 3 and 4.

3 In line 5, delete “127.531;”.

4 Delete lines 7 through 24 and delete pages 2 through 29 and insert:

5 **“SECTION 1. Sections 2 to 4 of this 2017 Act are added to and made**
6 **a part of ORS 127.505 to 127.660.**

7 **“SECTION 2. (1) The Advance Directive Adoption Committee is es-**
8 **tablished within the division of the Oregon Health Authority that is**
9 **charged with performing the public health functions of the state.**

10 **“(2)(a) The committee consists of 16 members.**

11 **“(b) One member shall be the Long Term Care Ombudsman or the**
12 **designee of the Long Term Care Ombudsman.**

13 **“(c) Twelve members shall be appointed by the President of the**
14 **Senate as follows:**

15 **“(A) One member who represents primary health care providers.**

16 **“(B) One member who represents hospitals.**

17 **“(C) One member who is a clinical ethicist affiliated with a health**
18 **care facility located in this state, or affiliated with a health care or-**
19 **ganization offering health care services in this state.**

20 **“(D) Two members who are health care providers with expertise in**
21 **palliative or hospice care, one of whom is not employed by a hospital**

1 or other health care facility, a health care organization or an insurer.

2 “(E) One member who represents individuals with disabilities.

3 “(F) One member who represents consumers of health care services.

4 “(G) One member who represents the long term care community.

5 “(H) One member with expertise advising or assisting consumers
6 with end-of-life decisions.

7 “(I) One member from among members proposed by the Oregon
8 State Bar who has extensive experience in elder law and advising in-
9 dividuals on how to execute an advance directive.

10 “(J) One member from among members proposed by the Oregon
11 State Bar who has extensive experience in estate planning and advis-
12 ing individuals on how to make end-of-life decisions.

13 “(K) One member from among members proposed by the Oregon
14 State Bar who has extensive experience in health law.

15 “(d) One member who is an advocate for end-of-life decision making
16 appointed by the Speaker of the House of Representatives.

17 “(e) One member who is an advocate for end-of-life decision making
18 appointed by the Minority Leader of the Senate.

19 “(f) One member who is an advocate for end-of-life decision making
20 appointed by the Minority Leader of the House of Representatives.

21 “(3) The term of office of each member of the committee is four
22 years, but a member serves at the pleasure of the appointing author-
23 ity. Before the expiration of the term of a member, the appointing
24 authority shall appoint a successor whose term begins on January 1
25 next following. A member is eligible for reappointment. If there is a
26 vacancy for any cause, the appointing authority shall make an ap-
27 pointment to become immediately effective for the unexpired term.

28 “(4) A majority of the members of the committee constitutes a
29 quorum for the transaction of business.

30 “(5) Official action by the committee requires the approval of a

1 majority of the members of the committee.

2 “(6) The committee shall elect one of its members to serve as
3 chairperson.

4 “(7) The committee shall meet at times and places specified by the
5 call of the chairperson or of a majority of the members of the com-
6 mittee, provided that the committee meets at least twice a year.

7 “(8) The committee may adopt rules necessary for the operation of
8 the committee.

9 “(9) Members of the committee are not entitled to compensation,
10 but may be reimbursed for actual and necessary travel and other ex-
11 penses incurred by them in the performance of their official duties in
12 the manner and amounts provided for in ORS 292.495. Claims for ex-
13 penses shall be paid out of funds appropriated to the Oregon Health
14 Authority for purposes of the committee.

15 “SECTION 3. (1) In accordance with public notice and stakeholder
16 participation requirements prescribed by the Oregon Health Authority
17 and section 4 of this 2017 Act, the Advance Directive Adoption Com-
18 mittee established under section 2 of this 2017 Act shall:

19 “(a) Adopt the form of an advance directive that may be used in
20 this state;

21 “(b) Review the form not less than once every four years for the
22 purpose of adopting changes to the form that the committee deter-
23 mines are necessary; and

24 “(c) Review the statutes of this state related to attorneys-in-fact
25 and advance directives for purposes of making recommendations for
26 legislation with respect to those statutes.

27 “(2) Except as otherwise provided by ORS 127.505 to 127.660, the form
28 of an advance directive adopted pursuant to this section is the only
29 valid form of an advance directive in this state.

30 “(3) At a minimum, the form of an advance directive adopted under

1 **this section must contain the following elements:**

2 **“(a) A statement about the purposes of the advance directive, in-**
3 **cluding:**

4 **“(A) A statement about the purpose of the principal’s appointment**
5 **of an attorney-in-fact to make health care decisions for the principal**
6 **if the principal becomes incapable;**

7 **“(B) A statement about the priority of attorney-in-fact appointment**
8 **in ORS 127.635 in the event the principal becomes incapable and does**
9 **not have a valid attorney-in-fact appointment;**

10 **“(C) A statement about the purpose of the principal’s expression**
11 **of the principal’s values and beliefs with respect to health care deci-**
12 **sions and the principal’s preferences for health care;**

13 **“(D) A statement about the purpose of the principal’s expression**
14 **of the principal’s preferences with respect to placement in a care home**
15 **or a mental health facility; and**

16 **“(E) A statement that advises the principal that the advance di-**
17 **rective allows the principal to document the principal’s preferences,**
18 **but is not a POLST, as defined in ORS 127.663.**

19 **“(b) A statement explaining that to be effective the advance direc-**
20 **tive must be:**

21 **“(A) Accepted by signature or other applicable means; and**

22 **“(B) Either witnessed and signed by at least two adults or notarized.**

23 **“(c) A statement explaining that to be effective the appointment**
24 **of an attorney-in-fact or an alternate attorney-in-fact must be ac-**
25 **cepted by the attorney-in-fact or the alternate attorney-in-fact.**

26 **“(d) A statement explaining that the advance directive, once exe-**
27 **cuted, supersedes any previously executed advance directive.**

28 **“(e) The name, date of birth, address and other contact information**
29 **of the principal.**

30 **“(f) The name, address and other contact information of any**

1 attorney-in-fact or any alternate attorney-in-fact appointed by the
2 principal.

3 “(g) A section providing the principal with an opportunity to state
4 the principal’s values and beliefs with respect to health care decisions,
5 including the opportunity to describe the principal’s preferences, by
6 completing a checklist, by providing instruction through narrative or
7 other means, or by any combination of methods used to describe the
8 principal’s preferences, regarding:

9 “(A) When the principal wants all reasonably available health care
10 necessary to preserve life and recover;

11 “(B) When the principal wants all reasonably available health care
12 necessary to treat chronic conditions;

13 “(C) When the principal wants to specifically limit health care
14 necessary to preserve life and recover, including artificially adminis-
15 tered nutrition and hydration, cardiopulmonary resuscitation and
16 transport to a hospital; and

17 “(D) When the principal desires comfort care instead of health care
18 necessary to preserve life.

19 “(h) A section where the principal and the witnesses or notary may
20 accept by signature or other means, including electronic or verbal
21 means, the advance directive.

22 “(i) A section where any attorney-in-fact or any alternate
23 attorney-in-fact appointed by the principal may accept the advance
24 directive by signature or other means, including electronic or verbal
25 means.

26 “(4) In adopting the form of an advance directive under this section,
27 the committee shall use plain language.

28 “(5) The principal may attach supplementary material to an ad-
29 vance directive. In addition to the form of an advance directive
30 adopted under this section, supplementary material attached to an

1 advance directive under this subsection is a part of the advance di-
2 rective.

3 “(6) The Oregon Health Authority shall post the form of an advance
4 directive adopted under this section on the authority’s website.

5 **“SECTION 4. (1) The form of an advance directive adopted under**
6 **section 3 of this 2017 Act may not take effect until the form has been**
7 **ratified by the Legislative Assembly in the manner required for the**
8 **passage of bills by Article IV, section 25 (1), of the Oregon Constitu-**
9 **tion, and by the Governor in the manner required for the passage of**
10 **bills by Article V, section 15b, of the Oregon Constitution.**

11 **“(2) For purposes of this section, the Advance Directive Adoption**
12 **Committee established under section 2 of this 2017 Act shall submit the**
13 **form of an advance directive adopted under section 3 of this 2017 Act**
14 **to an interim committee of the Legislative Assembly related to the**
15 **judiciary on or before September 1 following the date on which the**
16 **committee adopts the form. Upon receiving the form, the interim**
17 **committee shall file a proposed legislative measure with Legislative**
18 **Counsel requesting a measure by which the Legislative Assembly and**
19 **the Governor may ratify the form. In preparing the proposed legisla-**
20 **tive measure, the Legislative Counsel shall amend ORS 127.531 to re-**
21 **place any form for an advance directive currently required to be used**
22 **under the laws of this state with the form adopted by the committee.**

23 **“SECTION 5. (1) Sections 1 to 4 of this 2017 Act become operative**
24 **on January 1, 2018.**

25 **“(2) The Oregon Health Authority may take any action before the**
26 **operative date specified in subsection (1) of this section that is neces-**
27 **sary to enable the authority to exercise, on and after the operative**
28 **date specified in subsection (1) of this section, all the duties, powers**
29 **and functions conferred on the authority by sections 1 to 4 of this 2017**
30 **Act.**

