

House Committee on Health Care

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CC

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(Please enter this as my testimony before the committee, even though I could not come in person.)

My concerns about House Bill 4135

Section 2: Governor can stock committee with members sharing her personal biases.

I don't like the governor controlling the appointments of all committee members. They are unaccountable to us. While it stipulates a wide variety of stake holders, yet the Governor can pick each position based on personal biases. I'd rather have a two party legislative committee to offer checks and balances.

Section 3: The "Directive" is reduced to a Wish list -- even lawyer documents lose their previous powers.

The "directive" invites us to express *values, beliefs, preferences, wants, and wishes*. "Hereby directed to" does not appear in it. Consider this definition of a "directive" from the web:

noun: directive; plural noun: directives 1. an official or authoritative instruction. "moral and ethical directives" synonyms: instruction, direction, command, order, charge, injunction, prescription, rule, ruling, regulation, law, dictate, decree, dictum, edict, mandate, fiat; formal ordinance, "a directive from the front office".

When a government employee gives a directive, there is no wiggle room. The public, including many seniors, understand a "directive" to be a command to be followed, not "considered". "Advanced Wishes" better describes the bill. When a word is used with the opposite meaning of what people know it to be, it is misleading and deceptive.

This statement is a concern:

"Except as otherwise provided...the form of an advance directive adopted pursuant to this section is the only valid form of an advanced directive in this state."

Any legal document a lawyer may make, once attached to the addendum, loses its power. The addendum itself limits it to just being something to be "considered." We are losing authoritative control over our lives.

Section 3 does tell you it is not a POLST, which at least gives a few people an advanced warning. That notification was good.

Section 5: Speaking isn't the only way to communicate - so why is that all they offer before taking over?

Highest of concern here:

2. *MY HEALTH CARE REPRESENTATIVE. I choose the following person as my health care representative to make health care decisions for me if I can't SPEAK for myself."*

(Section 6 is similar):

"...if you become too sick to SPEAK for yourself."

"Speaking" is not the only way to clearly and lucidly communicate: consider those who can use American sign language, writing, typing, pointing to words, or nodding to questions. I helped a friend communicate who had a stroke by printing a poster of the top 500 words used and then a poster of the alphabet. While she couldn't talk, she could communicate. Using "speak" and no other options, undermines patients rights and allows abuse of the most vulnerable. That this should make it past the legislature's legal team suggests that Oregon wants to decide too much of end of life decisions and is leaving gaping holes in the law; by such loopholes, others are empowered with this excuse to terminate life: "We followed the law."

Section 6: "GUIDELINES...to CONSIDER" "To the extent APPROPRIATE, my health care representative must..."

Further watering down the meaning of a directive we see this:

"My instructions are GUIDELINES for my health care representative to CONSIDER when making decisions about my care."

Health Care Representatives aren't to consider directives as obligations. Doctors may influence representatives who are unaware of optional choices, allowing hospitals to steer people towards things that favor hospital cost-savings, including termination. In addition, various words (used in some definitions) need defining themselves. Define "appropriate": *"To the extent APPROPRIATE, my health care representative must follow my instructions..."*

This allows medical professionals to step in and supersede the health care representative at will, by considering a person's advance directives as "inappropriate." Where is the recourse? Who decides?

Section 7: What does it mean to be "UNAVAILABLE" and when can people use that to do as they please?

Other words are ill-defined and rife for abuse:

"The health care representative is UNABLE, unwilling or UNAVAILABLE to make TIMELY health care decisions for the principal ...is NOT AVAILABLE to answer questions for the health care provider in person, by telephone or by another means of DIRECT communication."

We understand health care decisions must sometimes be made in a matter of hours, not days. Yet this section applies to urgent and non-urgent situations. If my wife was visiting in Israel and her cell phone battery needed recharging, then if a doctor had a decision to make about me that could wait a week and called but could not immediately reach her by phone or by another means of direct communication, then the law would allow him to just go ahead and appoint another or make the decision himself, without forcing him to try longer. This allows people to make inappropriate decisions.

Thoughts: Abuse is rampant in Oregon - just look at the Roseburg VA. Try telling me this won't be abused?

At the Roseburg VA, what could go wrong has gone wrong: Fraud regarding records of patient waiting times, cover-ups, neglect which caused people to die, oppression from the highest levels, graft, doctors leaving in droves. All of this was for our nation's finest. Don't say this bill won't be used as cover for harm.

I deeply, and gravely, oppose this revision. It gives away our very autonomy, and safety. There are health care professionals who don't give a lick about another "male, Caucasian, age 55, unconscious..." (Insert your description there...) Do you want those loopholes lingering when your mother, daughter, spouse, or you yourself were in a situation where you couldn't "speak" and your spouse was not "immediately available"?

Is this the best Oregon can provide?

In closing: Nothing requires anyone to ultimately "respect" your wishes or be constrained by them. And there are gaping holes that allow people to make cost-cutting decisions that aren't the best for your health with cover of law. Please, be as concerned as I am.

Thank you,
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