

Senate Committee On Judiciary

Dear Chair Prozanski, Vice-Chair Thatcher, and committee members

HB 4135 Advance Directive

I STRONGLY OPPOSE HB 4135, which establishes Advance Directive Rules Adoption Committee to adopt a new form, and creates a new Health Care Representative form and procedures.

The bill's wording is intentionally vague to make everything very unclear and subject to whatever the people surrounding the patient want to do and has very few protections for the patient's wishes. It's sad that one contentious case has disrupted the whole process into something less accountable.

Just because the current form hasn't been updated since 1993 doesn't make it a bad form. End of life conditions remain the same and always will. This bill doesn't answer the simple question of legal murder before the body is ready to go.

My siblings and I recently helped our mother complete her Advance Directive Form. Had this bill had been in effect, I wouldn't recommend going through that long tedious unpleasant task. If this bill passes, I will be recommending to all my friends and family to simply appoint a power of attorney and write down what they wish done if capacity is lost. It will have more power than this Advance Directive, which doesn't guarantee that personal directives will be followed. I don't fear for my family because we are close-knit, but I am concerned for seniors that don't have our family support.

VOTE NO ON HB 4135.

Donna Bleiler

In the current advance directive, in order to make a life-ending decision for an incapable person, a health care representative must be expressly given the legal authority by the patient, except in limited circumstances (ORS 127.540). SB 494 removes the advance directive from statute and makes other changes that would eliminate this explicit limit on the authority of the health care representative.

The change from Power of Attorney to Health Care Representative allows the representative to make decisions contrary to the advance directive without legal judiciary responsibility.

Section 3(3) At a minimum, the form of an advance directive adopted under this section must

contain the following elements:

(c) A statement explaining that to be effective the appointment of a health care representative

or an alternate health care representative must be accepted by the health care representative or the alternate health care representative.

Section 9 [(21) removes Power of attorney for health care]

{(24) removes Tube feeding for hydration]

Section 12 After the principal becomes incapable, the health care representative or an alternate health care representative may withdraw by giving notice to the health care provider.

Section 13

Section 5 (pg 4-5) is provided to designate a Health Care Representative and an alternate when the Health Care Rep is not available. If the Health Care Rep believes that life support is not helpful, it can be stopped or not used. Helpful is not defined, thus helpful is whatever the Health Care Rep believes.

Life support can involve the use of ventilator or pacemaker, and can also be a heating blanket, or antibiotics.

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#### 4. DIRECTIONS REGARDING MY END OF LIFE CARE.

In filling out these directions, keep the following in mind:

- The term "as my health care provider recommends" means that you want your health care provider to use life support if your health care provider believes it could be helpful, and that you want your health care provider to discontinue life support if your health care provider believes it is not helping your health condition or symptoms.
- The term "life support" means any medical treatment that maintains life by sustaining, restoring or replacing a vital function.
- The term "tube feeding" means artificially administered food and water.
- If you refuse tube feeding, you should understand that malnutrition, dehydration and death will probably result.
- You will receive care for your comfort and cleanliness no matter what choices you make.

This issue of the alert, which Kruse says is wrong, is based on the definition of "as my health care provider recommends" means "to use support if your health care provider believes it could be helpful, and that you want your health care provider to discontinue life support if your health care provider believes it is not helping your health condition or symptoms." The issue is withholding food or water. It goes on to say:

- The term "life support" means any medical treatment that maintains life by sustaining,

restoring or replacing a vital function.

- The term “tube feeding” means artificially administered food and water.
- If you refuse tube feeding, you should understand that malnutrition, dehydration and death will probably result.

I was trying to figure out if a doctor's creed would allow a physician to let a patient die from malnutrition or dehydration if not for an Advanced Directive. Oregon is becoming famous for defying doctor's oath to medicine, and why would we give a person the choice to die against a doctor's oath.

Page 17 is already in the law:

(5) ORS 127.505 to 127.660 do not authorize a health care representative or health care provider

to withhold or withdraw life-sustaining procedures or artificially administered nutrition and hydration

[in any situation] if the principal manifests an objection to the health care decision. If the

principal objects to [such a] the health care decision, the health care provider shall proceed as

though the principal [were] is capable [for the purposes of] with respect to the health care decision

There was some talk about representatives being able to go against the Directive if they thought it was better, but it's already in law - Page 18, 20.