



February 21, 2018

TO: Senator Floyd Prozanski, Chair  
Senate Committee on Judiciary  
FR: Bob Joondeph, Executive Director  
RE: Support for HB 4135

Disability Rights Oregon (DRO) is our state's Protection and Advocacy office, providing legal-based advocacy services to Oregonians with disabilities. The right of self-determination in all aspects of life is a core principle of laws that protect the civil rights of individuals with disabilities. Sadly, people with disabilities have historically been subject to involuntary institutionalization, medical experimentation, sterilization and even mass execution. It is understandable that in the area of end-of-life decision-making, people with disabilities have a heightened concern that they will be stripped of self-determination and that their lives and wishes will be devalued by others who claim the right to decide for them.

DRO contributed to the effort to pass the existing advance directive law in 1989 to enhance adults' ability to control their own care. We also worked to pass the Declaration for Mental Health Treatment law in 1993 (ORS 127.700 to 127.737). Four years after passage of the Declaration law, we helped to amend the law to make the declaration form more usable and intuitive. We believe that HB 4135 will do the same for the Health Care Directive.

Many people think of health care directives as only addressing end-of-life decision-making. But they are also used to make medical and placement decisions when a person becomes incapable as the result of stroke, dementia or traumatic brain injury. Decisions regarding nursing home and other restrictive placements, admission to psychiatric facilities and treatment with psychiatric drugs may all be delegated through an advance directive. These are decisions that a person may have to live with for years and decades to come.

HB 4135 will increase the accessibility of health care directives by making it easier to accept an appointment and to secure witnesses for signing. It will add more professionals who may be directed to act by an adult and will create a work group to continue work to improve the form. The goal is to empower adults who wish to have greater influence over how they are treated if and when they become incapable.

DRO is satisfied that HB 4135 does not change state law that prohibits the withholding of food or drink for incapacitated individuals. Current law and HB 4135 require that comfort care, including reasonable efforts to orally offer food and water, must be offered. (See: ORS 127.642) Comfort measures cannot be removed by a health care provider or a health care representative.

Thank you for this opportunity to support HB 4135 that will give Oregonians with and without disabilities the opportunity to have greater direction over their own care.