

Corrected

SB 1039 B STAFF MEASURE SUMMARY

Carrier: Rep. Keny-Guyer

House Committee On Health Care**Action Date:** 05/21/19**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 11-0-0-0**Yeas:** 11 - Alonso Leon, Boles, Drazan, Greenlick, Hayden, Keny-Guyer, Mitchell, Noble, Nosse, Prusak, Salinas**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Oliver Droppers, LPRO Analyst**Meeting Dates:** 5/21**WHAT THE MEASURE DOES:**

Authorizes appointment of health care advocate (advocate) to make health care decisions for individual without a guardian or health care representative. Defines "individual" as person who has an intellectual or developmental disability and who receives services through an individualized written service plan. Specifies parameters, limitations, and scope of appointment. Requires health care decisions made by advocate be approved by majority of individualized written service plan team at an in-person meeting with individual unless individual declines or is unable due to medical condition. Provides for individual to protest health care decisions made by advocate and requires individualized written service plan team to respond immediately as specified. Requires Department of Human Services to make training available to people involved in an individual's service plan team, and to adopt rules.

ISSUES DISCUSSED:

- Differences between guardianship and health care advocate; aiding individuals with health care decisions
- Replacing "health care representative" with "health care advocate" in statute through rulemaking
- Provider notification

EFFECT OF AMENDMENT:

Modifies protest process to revoke the corresponding health care decision, withdraw the advocate's authority with respect to the revoked decision, and notify providers.

BACKGROUND:

In Oregon, as in most jurisdictions, individuals are allowed to designate a health care representative to make health care decisions when they are unable to direct their own care. An "advance directive" is a document that contains health care instructions and/or grants of authority, such as designating a representative to make health care decisions, or power of attorney, on behalf of an incapacitated person. Life-sustaining health care decisions may be made on behalf of an incapacitated person with a terminal condition, pursuant to an advance directive and/or by authorized individuals, such as a guardian, appointed or designated health care representative, the person's spouse, the person's parent or adult child, and/or attending health care providers.

Senate Bill 1039 B authorizes the appointment of a health care advocate to make health care decisions for someone who has intellectual or developmental disabilities, who receives services through an individualized written service plan, and who does not have a guardian or a health care representative. The measure specifies appointment requirements, restrictions on the scope of decision making, and patients' rights.