

# House Bill 2232

Sponsored by Representative GREENLICK, Senator STEINER HAYWARD, Representative SALINAS, Senator PROZANSKI; Representative NOSSE, Senator ROBLAN (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits anyone other than patient from administering medication to end patient's life in humane and dignified manner.

Defines "self-administer."

Expands definition of "terminal disease."

Permits patient to request medication to end patient's life in humane and dignified manner no earlier than 90 days after receiving terminal diagnosis.

Creates exception to 90-day waiting period for patient with less than six months to live.

## A BILL FOR AN ACT

1  
2 Relating to death with dignity; creating new provisions; and amending ORS 127.800, 127.815, 127.850,  
3 127.875, 127.885 and 127.897.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 127.800 to**  
6 **127.897.**

7 **SECTION 2. Medication prescribed under ORS 127.800 to 127.897 must be self-**  
8 **administered by the patient and may not be administered on behalf of the patient by any**  
9 **other person.**

10 **SECTION 3. ORS 127.800 is amended to read:**

11 127.800. §1.01. Definitions. The following words and phrases, whenever used in ORS 127.800 to  
12 127.897, have the following meanings:

13 (1) "Adult" means an individual who is 18 years of age or older.

14 (2) "Attending physician" means the physician who has primary responsibility for the care of the  
15 patient and treatment of the patient's terminal disease.

16 (3) "Capable" means that in the opinion of a court or in the opinion of the patient's attending  
17 physician or consulting physician, psychiatrist or psychologist, a patient has the ability to make and  
18 communicate health care decisions to health care providers, including communication through per-  
19 sons familiar with the patient's manner of communicating if those persons are available.

20 (4) "Consulting physician" means a physician who is qualified by specialty or experience to  
21 make a professional diagnosis and prognosis regarding the patient's disease.

22 (5) "Counseling" means one or more consultations as necessary between a [*state licensed*] psy-  
23 chiatrist or **licensed** psychologist and a patient for the purpose of determining that the patient is  
24 capable and not suffering from a psychiatric or psychological disorder or depression causing im-  
25 paired judgment.

26 (6) "Health care provider" means a person licensed, certified or otherwise authorized or per-  
27 mitted by the law of this state to administer health care or dispense medication in the ordinary  
28 course of business or practice of a profession, and includes a health care facility.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (7) “Informed decision” means a decision by a qualified patient, to request and obtain a pre-  
 2 scription **for medication** to end his or her life in a humane and dignified manner, that is based on  
 3 an appreciation of the relevant facts and after being fully informed by the attending physician of:

4 (a) His or her medical diagnosis;

5 (b) His or her prognosis;

6 (c) The potential risks associated with *[taking]* **self-administering** the medication to be pre-  
 7 scribed;

8 (d) The probable result of *[taking]* **self-administering** the medication to be prescribed; and

9 (e) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain  
 10 control.

11 (8) “Medically confirmed” means the medical opinion of the attending physician has been con-  
 12 firmed by a consulting physician who has examined the patient and the patient’s relevant medical  
 13 records.

14 (9) “Patient” means a person who is under the care of a physician.

15 (10) “Physician” means a doctor licensed to practice medicine under ORS 677.100 to 677.228.

16 (11) “Qualified patient” means a capable adult who is a resident of Oregon and has satisfied the  
 17 requirements of ORS 127.800 to 127.897 in order to obtain a prescription for medication to end his  
 18 or her life in a humane and dignified manner.

19 **(12) “Self-administer” means a qualified patient’s physical act of ingesting or delivering**  
 20 **by another method medication to end his or her life in a humane and dignified manner.**

21 *[(12)]* **(13) “Terminal disease” means *[an incurable and irreversible disease that has been med-***  
 22 *ically confirmed and will, within reasonable medical judgment, produce death within six months.] a*  
 23 **disease that will, within reasonable medical judgment, produce or substantially contribute to**  
 24 **a patient’s death.**

25 **SECTION 4.** ORS 127.815 is amended to read:

26 127.815. §3.01. Attending physician responsibilities. (1) The attending physician shall:

27 (a) **Medically confirm a patient has a terminal disease;**

28 (b) Make the initial determination of whether a patient *[has a terminal disease,]* is capable[,] and  
 29 has made the request voluntarily;

30 *[(b)]* (c) Request that the patient demonstrate Oregon residency pursuant to ORS 127.860;

31 *[(c)]* (d) To ensure that the patient is making an informed decision, inform the patient of:

32 (A) His or her medical diagnosis;

33 (B) His or her prognosis;

34 (C) The potential risks associated with *[taking]* **self-administering** the medication to be pre-  
 35 scribed;

36 (D) The probable result of *[taking]* **self-administering** the medication to be prescribed; and

37 (E) The feasible alternatives, including, but not limited to, comfort care, hospice care and pain  
 38 control;

39 (d) Refer the patient to a consulting physician for medical confirmation of the diagnosis, and for  
 40 a determination that the patient is capable and acting voluntarily;

41 (e) Refer the patient for counseling if appropriate pursuant to ORS 127.825;

42 (f) Recommend that the patient notify next of kin;

43 (g) Counsel the patient about the importance of having another person present when the patient  
 44 *[takes]* **self-administers** the medication prescribed pursuant to ORS 127.800 to 127.897 and of not  
 45 *[taking]* **self-administering** the medication in a public place;

1 (h) Inform the patient that he or she has an opportunity to rescind the request at any time and  
 2 in any manner, and offer the patient an opportunity to rescind at the end of the 15-day waiting pe-  
 3 riod pursuant to ORS 127.840;

4 (i) Verify, immediately prior to writing the prescription for medication under ORS 127.800 to  
 5 127.897, that the patient is making an informed decision;

6 (j) Fulfill the medical record documentation requirements of ORS 127.855;

7 (k) Ensure that all appropriate steps are carried out in accordance with ORS 127.800 to 127.897  
 8 prior to writing a prescription for medication to enable a qualified patient to end his or her life in  
 9 a humane and dignified manner; and

10 (L)(A) Dispense medications directly, including ancillary medications intended to facilitate the  
 11 desired effect to minimize the patient's discomfort, provided the attending physician is registered as  
 12 a dispensing physician with the Oregon Medical Board, has a current Drug Enforcement Adminis-  
 13 tration certificate and complies with any applicable administrative rule; or

14 (B) With the patient's written consent:

15 (i) Contact a pharmacist and inform the pharmacist of the prescription; and

16 (ii) Deliver the written prescription personally or by mail to the pharmacist, who will dispense  
 17 the medications to either the patient, the attending physician or an expressly identified agent of the  
 18 patient.

19 (2) Notwithstanding any other provision of law, the attending physician may sign the patient's  
 20 report of death.

21 **SECTION 5.** ORS 127.850 is amended to read:

22 127.850. §3.08. Waiting periods. (1) **Except as provided in subsection (2) of this section, no**  
 23 **less than 90 days shall elapse between the date a patient receives a terminal disease diagnosis**  
 24 **and the patient's initial oral request for medication under ORS 127.800 to 127.897.**

25 (2) **If the terminal disease will, within reasonable medical judgment, produce or sub-**  
 26 **stantially contribute to the patient's death within six months, the patient may make the in-**  
 27 **itial oral request for medication under ORS 127.800 to 127.897 at any time following the date**  
 28 **the terminal disease is diagnosed.**

29 (3) No less than *[fifteen (15)]* **15** days shall elapse between the patient's initial oral request and  
 30 the writing of a prescription under ORS 127.800 to 127.897. No less than 48 hours shall elapse be-  
 31 tween the patient's written request and the writing of a prescription under ORS 127.800 to 127.897.

32 **SECTION 6.** ORS 127.875 is amended to read:

33 127.875. §3.13. Insurance or annuity policies. The sale, procurement, or issuance of any life,  
 34 health, or accident insurance or annuity policy or the rate charged for any policy shall not be  
 35 conditioned upon or affected by the making or rescinding of a request, by a person, for medication  
 36 to end his or her life in a humane and dignified manner. Neither shall a qualified patient's act of  
 37 *[ingesting]* **self-administering** medication to end his or her life in a humane and dignified manner  
 38 have an effect upon a life, health, or accident insurance or annuity policy.

39 **SECTION 7.** ORS 127.885 is amended to read:

40 127.885. §4.01. Immunities. Except as provided in ORS 127.890:

41 (1) No person shall be subject to civil or criminal liability or professional disciplinary action for  
 42 participating in good faith compliance with ORS 127.800 to 127.897. This includes being present  
 43 when a qualified patient *[takes]* **self-administers** the prescribed medication to end his or her life in  
 44 a humane and dignified manner.

45 (2) No professional organization or association, or health care provider, may subject a person

1 to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or other  
2 penalty for participating or refusing to participate in good faith compliance with ORS 127.800 to  
3 127.897.

4 (3) No request by a patient for or provision by an attending physician of medication in good  
5 faith compliance with the provisions of ORS 127.800 to 127.897 shall constitute neglect for any pur-  
6 pose of law or provide the sole basis for the appointment of a guardian or conservator.

7 (4) No health care provider shall be under any duty, whether by contract, by statute or by any  
8 other legal requirement to participate in the provision to a qualified patient of medication to end  
9 his or her life in a humane and dignified manner. If a health care provider is unable or unwilling  
10 to carry out a patient's request under ORS 127.800 to 127.897, and the patient transfers his or her  
11 care to a new health care provider, the prior health care provider shall transfer, upon request, a  
12 copy of the patient's relevant medical records to the new health care provider.

13 (5)(a) Notwithstanding any other provision of law, a health care provider may prohibit another  
14 health care provider from participating in ORS 127.800 to 127.897 on the premises of the prohibiting  
15 provider if the prohibiting provider has notified the health care provider of the prohibiting  
16 provider's policy regarding participating in ORS 127.800 to 127.897. Nothing in this paragraph pre-  
17 vents a health care provider from providing health care services to a patient that do not constitute  
18 participation in ORS 127.800 to 127.897.

19 (b) Notwithstanding the provisions of subsections (1) to (4) of this section, a health care provider  
20 may subject another health care provider to the sanctions stated in this paragraph if the sanctioning  
21 health care provider has notified the sanctioned provider prior to participation in ORS 127.800 to  
22 127.897 that it prohibits participation in ORS 127.800 to 127.897:

23 (A) Loss of privileges, loss of membership or other sanction provided pursuant to the medical  
24 staff bylaws, policies and procedures of the sanctioning health care provider if the sanctioned pro-  
25 vider is a member of the sanctioning provider's medical staff and participates in ORS 127.800 to  
26 127.897 while on the health care facility premises, as defined in ORS 442.015, of the sanctioning  
27 health care provider, but not including the private medical office of a physician or other provider;

28 (B) Termination of lease or other property contract or other nonmonetary remedies provided by  
29 lease contract, not including loss or restriction of medical staff privileges or exclusion from a pro-  
30 vider panel, if the sanctioned provider participates in ORS 127.800 to 127.897 while on the premises  
31 of the sanctioning health care provider or on property that is owned by or under the direct control  
32 of the sanctioning health care provider; or

33 (C) Termination of contract or other nonmonetary remedies provided by contract if the sanc-  
34 tioned provider participates in ORS 127.800 to 127.897 while acting in the course and scope of the  
35 sanctioned provider's capacity as an employee or independent contractor of the sanctioning health  
36 care provider. Nothing in this subparagraph shall be construed to prevent:

37 (i) A health care provider from participating in ORS 127.800 to 127.897 while acting outside the  
38 course and scope of the provider's capacity as an employee or independent contractor; or

39 (ii) A patient from contracting with his or her attending physician and consulting physician to  
40 act outside the course and scope of the provider's capacity as an employee or independent contrac-  
41 tor of the sanctioning health care provider.

42 (c) A health care provider that imposes sanctions pursuant to paragraph (b) of this subsection  
43 must follow all due process and other procedures the sanctioning health care provider may have  
44 that are related to the imposition of sanctions on another health care provider.

45 (d) For purposes of this subsection:

1 (A) "Notify" means a separate statement in writing to the health care provider specifically in-  
2 forming the health care provider prior to the provider's participation in ORS 127.800 to 127.897 of  
3 the sanctioning health care provider's policy about participation in activities covered by ORS  
4 127.800 to 127.897.

5 (B) "Participate in ORS 127.800 to 127.897" means to perform the duties of an attending physi-  
6 cian pursuant to ORS 127.815, the consulting physician function pursuant to ORS 127.820 or the  
7 counseling function pursuant to ORS 127.825. "Participate in ORS 127.800 to 127.897" does not in-  
8 clude:

9 (i) Making an initial determination that a patient has a terminal disease and informing the pa-  
10 tient of the medical prognosis;

11 (ii) Providing information about [*the Oregon Death with Dignity Act*] **ORS 127.800 to 127.897** to  
12 a patient upon the request of the patient;

13 (iii) Providing a patient, upon the request of the patient, with a referral to another physician;  
14 or

15 (iv) A patient contracting with his or her attending physician and consulting physician to act  
16 outside of the course and scope of the provider's capacity as an employee or independent contractor  
17 of the sanctioning health care provider.

18 (6) Suspension or termination of staff membership or privileges under subsection (5) of this sec-  
19 tion is not reportable under ORS 441.820. Action taken pursuant to ORS 127.810, 127.815, 127.820  
20 or 127.825 shall not be the sole basis for a report of unprofessional or dishonorable conduct under  
21 ORS 677.415 (3), (4), (5) or (6).

22 (7) No provision of ORS 127.800 to 127.897 shall be construed to allow a lower standard of care  
23 for patients in the community where the patient is treated or a similar community.

24 **SECTION 8.** ORS 127.897 is amended to read:

25 127.897. §6.01. Form of the request. A request for a medication as authorized by ORS 127.800 to  
26 127.897 shall be in substantially the following form:

27 \_\_\_\_\_  
28  
29 **REQUEST FOR MEDICATION**  
30 **TO END MY LIFE IN A HUMANE**  
31 **AND DIGNIFIED MANNER**  
32

33 I, \_\_\_\_\_, am an adult of sound mind.

34 I am suffering from \_\_\_\_\_, which my attending physician has determined is a terminal  
35 disease and which has been medically confirmed by a consulting physician.

36 I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed  
37 and potential associated risks, the expected result, and the feasible alternatives, including comfort  
38 care, hospice care and pain control.

39 I request that my attending physician prescribe medication that will end my life in a humane  
40 and dignified manner.

41  
42 **INITIAL ONE:**

43 \_\_\_\_\_ I have informed my family of my decision and taken their opinions into consider-  
44 ation.

45 \_\_\_\_\_ I have decided not to inform my family of my decision.

